

Complaint

IN THE MATTER OF

CREATIVE HEALTH INSTITUTE, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 AND SEC. 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-4107; File No. 0123248*
Complaint, April 26, 2004--Decision, April 26, 2004

This consent order addresses practices used by Respondent Creative Health Institute, Inc. and Respondent Kyl L. Smith, individually and as an officer of the corporation, relating to the advertising and promotion of Focus Factor, a dietary supplement containing, among other things, vitamins, minerals, botanicals, and amino acids. The order, among other things, prohibits the respondents from representing that Focus Factor or any substantially similar product (1) improves the focus, memory, and concentration of healthy adults; (2) alleviates stress, fatigue, irritability and mood swings in healthy adults; (3) makes children and teenagers feel more alert, focused, and mentally sharp; (4) improves students' ability to concentrate and their academic performance; (5) improves senior citizens' memory, mental clarity, and energy; (6) improves adults' ability to absorb information in books and to recall facts, figures and names; or (7) works in as little as one to ten days, unless the claims are substantiated by competent and reliable scientific evidence. The order also prohibits the respondents from making any claims about the performance, benefits, or efficacy of any food, drug, or dietary supplement for: (a) the brain or any mental functions or processes (including, but not limited to cognitive function, memory, focus, learning or concentration); (b) stress, anxiety, energy, mood or behavior; (c) academic or business performance; (d) longevity, age-related memory impairment or dementia; or (e) the treatment, cure, mitigation, alleviation of the symptoms, prevention or reduction in the risk of any mental, brain, or central nervous system disease or disorder, without possessing competent and reliable scientific evidence that supports such claims. In addition, the order requires the respondents to disclose any material connection that exists between an endorser and the respondents or any other person or entity involved in marketing or selling the food, drug, or dietary supplement that is the subject of the endorsement, and to pay \$60,000 to the Commission.

Participants

For the Commission: *Tawana E. Davis, Shira D. Modell,*
Heather Hipsley, Mary K. Engle and Dennis Murphy.

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For the Respondents: *Robert Ullman, Ullman, Shapiro & Ullman LLP.*

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The Federal Trade Commission, having reason to believe that Creative Health Institute, Inc., a corporation, and Kyl L. Smith, individually and as an officer of Creative Health Institute, Inc. (“respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Creative Health Institute, Inc. (“Creative Health”) is a Texas corporation with its principal office or place of business at 4451 FM 2181, Suite 100-515, Corinth, Texas 76205.
2. Respondent Kyl L. Smith (“Smith”) is an officer and sole director of respondent Creative Health. Individually or in concert with others, he formulates, directs, controls or participates in the policies, acts, or practices of Creative Health, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of Creative Health.
3. Focus Factor is a dietary supplement containing more than forty (40) ingredients, including vitamins, minerals, dimethylaminoethanol, bacopa monnieri extract, huperzine, and phosphatidyl serine.
4. Respondents Creative Health and Smith developed, advertised, labeled, offered for sale, sold, and distributed Focus Factor from at least 1997 to 2000. Since 2000, Vital Basics, Inc., a Maine corporation, has advertised, labeled, offered for sale, sold, and distributed Focus Factor, and respondents Creative Health and Smith have participated in the advertising of Focus Factor.
5. Focus Factor is a “food” or “drug” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

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6. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

7. Respondents Creative Health and Smith have participated in the advertising and promotion of Focus Factor, including, but not limited to, through the radio and television infomercials and commercials attached as Exhibits A through G. Those advertisements, which were aired on various broadcast and cable channels, contained the following statements:

Radio Advertising

- a. "Smith: I'm Dr. Kyl Smith. A poor memory can be embarrassing. In business it can cost you money.

I've spent my career studying brain function, and I've created an amazingly effective supplement called Focus Factor. It's a unique supplement that enhances your natural brain chemistry to improve memory, focus and concentration.

In just a few days, you'll actually *feel* it working. You'll absorb the information in books like a sponge. You'll be able to recall facts, figures and names more easily. You'll feel more alert, more focused, and 'on task.'" [Exhibit A: "Kyl 2" (emphasis in original)]

- b. "Smith: This is Dr. Kyl Smith. . . . My dietary supplement, called Focus Factor, is helping thousands of families improve their focus, memory, mood, concentration, and energy.

(Electronic voice mail 'beep')

Ware: This is Marlene Ware. I'm calling on behalf of my son. He's having a tough time at school, and this has made such a difference. He's remembering things. I can't believe

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it! I wanted to tell you how much of a difference it's made for my son . . . Focus Factor. It has made a tremendous difference.

Smith: Focus Factor is safe, it's natural, and it works. Call now so you can immediately begin improving your memory, concentration, mood, focus and energy." [Exhibit B: "Donut Ware"]

- c. "Smith: I'm Dr. Kyl Smith. I've seen first-hand how *frustrating* it can be when a child has trouble with focus and concentration. Parents come to me because their children are unfocused, distracted . . . and they just don't know what to do about it.

That's why I developed Focus Factor. It's an effective, all-natural supplement with one purpose: to give your child's brain the exact nutrients it needs to function at its very best.

Focus Factor is for students who need help with concentration and memory. In just a few days, your child will feel alert, focused, and mentally sharp.

And by the way, there's also an adult formula I created for grown-ups who want to improve memory, concentration, and mood." [Exhibit C: "School's in Session" (emphasis in original)]

- d. "Host: Well hello again . . . welcome to the Vitalbasics radio program. We bring you vital health information on over 300 great radio stations covering all 50 states . . . and y'know what? I can count on two fingers – literally – the number of times I've actually invited a guest back on this program. Today is one of those times.

Dr. Kyl Smith is back with us at our invitation, and this time he's right here in the studio with us . . .

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So these are just a few of the phone messages we received, um . . . Here's a 65-year old woman. . . . She's been using it for 4 days. She says she cannot believe the change. She said she was slow and lethargic . . . she thought she was getting dimwitted . . . and she says 'Focus Factor started working almost immediately. I felt like a different person.' . . . Here's a woman from your stomping grounds, Texas. She says she's in the insurance industry . . . a very fast paced office. Lots of multi-tasking going on. She says 'I've been taking Focus Factor for a couple of weeks and saw a huge difference. Just unbelievable.' And I'm going to do one more here, because this shows how the product can help children as well. . .

Smith: Great . . .

Smith: Most seniors will tell me they've been taking nutritional supplements for maybe years, and never noticed a difference in how they feel. Can you imagine? Well, the thing that seniors tell me that Focus Factor does is it gives them that mental spark, that energy like they used to have. They feel like their memory is more on-task. They can recall things easier with less effort. And the thing I really like to hear is how it improves relationships.

Host: Here's a letter from a 65-year old woman I spoke with. And she says 'I tried ginkgo biloba for months, and it didn't do anything for my memory. But my memory is now wonderful since I've started taking Focus Factor. I noticed the difference within a couple of days.'

And I have some comments from some of the doctors we've spoken with. For example, this is a medical doctor. . . this is an M.D. named Lee Cowden, Dr. Lee Cowden. He's a cardiologist, and internist . . . and he says, uh . . . 'Compared to other supplements on the market, the nutrients in Focus Factor are present at better levels . . . and in the ideal forms more likely to enhance brain function. Taking Focus Factor

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results in a significant improvement in memory, concentration, and overall well-being.’ Pretty strong comment from a medical doctor.

Smith: Wonderful.” [Exhibit D: “4600”]

- e. “Host: Hi and welcome to the VitalBasics radio program. I’m Bill Begley. This is the health and wellness program you can hear on over 200 radio stations from coast to coast. We’re in California, Massachusetts, Florida, Texas, Hawaii, Alaska . . . you name it, we’re there, and we appreciate you tuning in today. Thank you very much for joining us.

My guest, on the phone with us today is Dr. Kyl Smith. . . . Thousands and thousands of hours, folks, this man has put into this breakthrough, this secret that we’re going to let you in on today. Dr. Smith, we have so much to talk about . . . it’s a blessing to have you on the program. Welcome.

Kyl: Thank you, Bill. I’m honored to be here.

Host: Anita Sohn is with us. She is a school administrator. And listen to this, this is an amazing story: She put her entire *class* on Focus Factor. Anita, welcome to the program. Can you tell us why you did that and what happened.

Anita: Surely. We were having such great challenges with kids being able to focus and being able to actually sit still and concentrate and do their work. And a year earlier, both my children had gone on the Focus Factor. And we had seen such a marked difference, when the parents would come and say ‘what can we do about this?’ then I would start to tell them, ‘Okay, this is what I would do in this situation. And it couldn’t hurt, it can only help . . . try it.’ So they started, one by one, each child started testing out the Focus Factor. And as a result, my entire class was on the

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Focus Factor. We have just . . . we've had just a wonderful time on it.

Host: So you put 'em on the product . . . and what you found was that in many cases the kids seemed more attentive, they got better grades some of them?

Anita: Definitely.

Smith: [W]e see a noticeable improvement in the way a person feels it doesn't matter if it's a child, a teen or an adult, in 1 to 10 days. Now I typically tell people, stay on Focus Factor each and every day consistently and you'll notice a difference within 2 weeks. But I've got to tell you Bill that most people come back after the first day and they say, 'Wow, what did you put in this stuff? I haven't felt this good since I was a teenager.'

Host: All right, we'll continue our discussion in a moment. But right now I want us to listen to some doctors and what they are saying about Focus Factor. Folks, these are people we spoke with earlier this week. First we're going to hear from Dr. Shawn Sieracki and then from Dr. Jim Van Meter. These are doctors who recommend Focus Factor to their patients – adults, children, seniors – some very interesting comments here. And Jon, if we could, let's roll the tape.

Dr. Shawn Sieracki: I first heard about Focus Factor about a year and a half ago. Dr. Kyl Smith introduced it to me at a seminar. And he passed out a few of the Focus Factor tablets. From that point on I've been hooked on Focus Factor. It helps calm the mind. And it enhances brain function. That is what I am finding it's doing for women, men, and children as well. It's an excellent product just to help enhance the brain function. I believe that Focus Factor is the very best brain support product on the market. Focus Factor helps children or adults with mental fatigue . . . poor focus and irritability . . . it helps to keep that under control.

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I believe Focus Factor is the best supplement on the market for memory control and memory function – not just with children, not just with adults, and not just with seniors . . . it hits *all* ages, and it gives all ages the right amount of nutrients for the brain.

Dr. Jim Van Meter: This is Dr. Jim Van Meter. Every time I ever research anything, I always try the product on myself. Number one, if I can't be convinced that it's a benefit to me, why in the world would I ever give it to anyone else? My son has been on it, my daughter's been on it, my son-in-law's been on it . . . everyone in my family is on Focus Factor. Number one, yes it has vitamins and minerals in it. It also has essential amino acids and things that are *also* in here that stimulate the brain to make the brain think, focus and recover facts, numbers, words, definitions, etcetera. Where normal multi-vitamins and mineral [sic] has *nothing* to do with it and can't *ever* turn your brain on to thinking. It's a product that everyone can trust, and be wonderfully happy that they are giving their children and their family the very best that can be given to them to be able to achieve every goal they set out for.

Host: So there you have just a few of the many doctors who recommend Focus Factor to their patients. These doctors were not paid in any way for their comments today.

Host: And it is my great honor and pleasure right now to have on the phone with me Representative Rick Green. And Rick is with the state house in the State of Texas. And he uses Focus Factor himself and his family. Representative Green, welcome to the program. Thank you very much for joining us.

Host: Now what's your story with Focus Factor?

Rep. Green: Well, you basically listed the reasons I was looking for something like Focus Factor. I was elected 2

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years ago, and in our Texas legislature we meet for 140 days and we cover 6,000 bills in that short time frame, and trying to juggle that and practice law and run a business and spend time with my boys is not an easy thing to do, and I'm used to managing all of those different things but just being stressed out all the time, and not really enjoying the times that you do get with the family . . . started taking [Focus Factor] about a year ago and found that was exactly the results. I felt a major difference in being able to manage different tasks, and focus on that task instead of y'know, how . . . you'd be at lunch with one person meeting on one thing, your mind's wandering off on all these other things you're supposed to be doing. Taking this product made a significant difference to where those things wouldn't happen.

Kyl: We're all having problems with memory today. It's not our fault. We have an innate ability to have an awesome memory. All we have to do is feed our brain the nutrients it's starving for to enhance energy production. And Focus Factor supplies those nutrients. . . .

Host: So it's kind of like memory in a bottle.

Kyl: Exactly.

Host: For over 5 years, Focus Factor has been available only through doctor's [sic] offices. But thanks to a special arrangement with Dr. Kyl Smith, you can now get on a 30-day risk-free trial *direct* from the Creative Health Institute. Mention the VitalBasics radio program when you order, and you can even get a 30-day supply absolutely *free*." [Exhibit E: "Bill #4400" (emphasis in original)]

- f. "Host: This is an incredible story. And I want us to start at the very beginning. Tell us about what inspired you to create Focus Factor?"

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Smith: It all started really when I just graduated out of my internship and I was creating my own practice. You see, every day it seemed patients were coming in with a similar question. They'd say, *Doctor, I am tired and fatigued all the time. I feel mentally foggy. Is there anything that's natural and that's good for me that's gonna boost my energy levels?* . . . And I felt guilty because I didn't have a good answer. So what did I do? I went to other physicians and I asked them, *Hey, what do you do when your patients ask this question? Did I miss something?*

Host: Now tell me this, in your experience, do you see improvements in kids' school work?

Smith: Absolutely. We've even seen dramatic improvements in academic performance. And let me give you an example. A child that comes to mind, his name is Brian. . . . Brian was a child that was kicked out of no less than 4 schools. He would not respond to his parents or any kind of authority outside like, like principals or teachers. After being on Focus Factor, in one year he was on the honor roll . . . and two years later he graduated from high school with honors.

Host: Now, earlier this week we spoke with several people who say Focus Factor has dramatically improved their quality of life. So if you or anyone in your family – anyone you know – could use some help with mood, energy, memory . . . y'know just clearing out those mental cobwebs, you need to listen to this.

Silke Jones: My name is Silke Jones and I have been taking Focus Factor for about six months. The reason I started taking Focus Factor was because of the product benefits. It helps eliminate mood swings. That it gives you a little pick-up, so to speak, during the day to where you don't get the doldrums in the afternoon. That really got my attention because that is me – right there. I've attributed a lot of

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mood swings or depression here and there, you know, to just the age I'm going through right now, you know being a woman. So when I started taking Focus Factor, I was just surprised how quickly I felt a difference. It was amazing. I notice right away when I don't take Focus Factor. It's hard to describe. You just have to try it. And everybody I've talked to that I've recommended it to has said the same thing.

Kristin Rister-Wheatley: My name is Kristin and since I've been taking Focus Factor I have gotten tremendous results. I have more energy. I have a more stabilized mood. I feel like my brain functions better. I am on top of my game. Everyone knows that women, especially women, go through mood swings especially during certain times of the month, certain times of their cycle, and I have noticed that my mood swings are not the highs and lows that they used to be. I am a much more steady, calm person. I think it's very important that parents try Focus Factor with their children. Personally, it made a dramatic difference in my daughter's performance, the way she felt in school – the way she'd concentrate. I've shared it with my friends. I've shared it with my family. They, everyone feels the same way. We all love Focus Factor. ” [Exhibit F: “Leisa #4500” (emphasis in original)]

Television Advertising

- g. “Host: Welcome to the Vitalbasics Health Show. . . . Several months ago . . . we interviewed a leading expert in nutrition who is generating controversy with his assertion that there's a nationwide epidemic called “Brain Starvation” that affects men, women and children alike in this country. According to Dr. Kyl Smith, memory loss, poor concentration, mood swings and fatigue are causing a dangerous drop in effectiveness in the workplace and a higher level of tension and even anger in the home. He also introduced a new dietary supplement called Focus Factor

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that helps people with these everyday problems. Dr. Smith, welcome to the program again.

Host: And you have made an impact in my life as well and I want to talk about that a little bit. Because in our last program folks, if you saw it, I told a story about this great big thick book that I picked up and read because I was taking Focus Factor and it was about the American revolution and I was able to remember all kinds of things. So I'll you what, let's roll the clip...

Host from previous show: "I started reading this 400 page book . . .very dense, very dry ...and what I found was, I'm remembering everything virtually in this book. I'm remembering the names of British Lords and generals and dukes and battle sites and chains of events that happened. This book literally came alive to me . . . not only as I was reading it, but after, my comprehension was extraordinary."

Host: And I have to say, since that program aired, things just seem to get better and better and better, its sort of a cumulative effect. A couple of things that I notice. First of all, my memory just seems to keep getting better. . . . So one thing I can do is visualize things better, which helps me to remember. The second big thing is multitasking. In the past, when I would get all different projects thrown at me at once, I would panic. Because it just seemed so overwhelming. Since taking Focus Factor what I find is I can more calmly prioritize things. I can focus on each task better,, which means I get it done more quickly generally. And I can just get the projects done faster. So that just eases all of that stress that normally would have come down on me."

Smith: That's great. [Exhibit G: "Bill's Case Studies"]

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8. Through the means described in Paragraph 7, respondents Creative Health and Smith have represented, expressly or by implication, that:

- (a) Focus Factor improves the focus, memory, and concentration of healthy adults;
- (b) Focus Factor alleviates stress and combats the fatigue, irritability and mood swings that healthy adults experience;
- (c) Focus Factor makes children and teenagers feel more alert, focused, and mentally sharp;
- (d) Focus Factor improves students' ability to concentrate and their academic performance;
- (e) Focus Factor improves senior citizens' memory, mental clarity, and energy;
- (f) Focus Factor improves adults' ability to absorb information in books and to recall facts, figures and names; and
- (g) Consumers who start taking Focus Factor regularly will feel its effects in as little as one to ten days.

9. Through the means described in Paragraph 7, respondents Creative Health and Smith have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 8, at the time the representations were made.

10. In truth and in fact, respondents Creative Health and Smith did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 8, at the time the representations were made. Therefore, the representation set forth in Paragraph 9 was, and is, false or misleading.

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11. In the advertising and sale of Focus Factor, respondents Creative Health and Smith have represented, directly or by implication, that various individuals are endorsers of Focus Factor. Respondents have failed to disclose adequately that certain of those individuals had material connections with Focus Factor. Specifically, at the time of providing their endorsements:

- a. Some of those endorsers were the principals in a public relations company that had been retained by Creative Health to promote Focus Factor, and their company earned a commission on sales resulting from its promotional work; and
- b. One of the endorsers was Creative Health's attorney; and
- c. Some of the endorsers were Focus Factor distributors who earned profits based on their sales of the product.

These facts would materially affect the weight and credibility given by consumers to the endorsements and would be material to consumers in their purchase or use of the product. Therefore, the failure to adequately disclose these facts, in light of the representation made, was, and is, a deceptive practice.

12. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

IN WITNESS WHEREOF, the Federal Trade Commission has caused its complaint to be signed by its Secretary and its official seal to be hereto affixed at Washington, D.C. this twenty-sixth day of April, 2004.

Focus Factor

:60 Radio

Kyl 2

(9/13/00)

ISCI code FF17

File name Focus Factor RS 17

Dr. Kyl Smith: Do you ever get the feeling you've misplaced your memory...and you can't remember where you put it?

I'm Dr. Kyl Smith. A poor memory can be embarrassing. In business it can cost you money.

I've spent my career studying brain function, and I've created an amazingly effective supplement called Focus Factor. It's a unique supplement that enhances your natural brain chemistry to improve memory, focus and concentration.

In just a few days, you'll actually *feel* it working. You'll absorb the information in books like a sponge. You'll be able to recall facts, figures and names more easily. You'll feel more alert, more focused, and "on-task."

Focus Factor has been a huge success for kids, teens, adults and seniors. And now you can try it yourself with absolutely no risk.

Tag (:18) Ask how you can get a free 30-day supply of Focus Factor with your order!
Call 1-800-_____. That's 1-800-_____. Money back if you're not delighted.
Call 1-800-_____.

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510 Congress Street
Portland, ME 04101
(207) 775-5007

Focus Factor
:60 Radio
Donut Ware
(2/12/01)

ISCI code FF49
File name Focus Factor RS 49

Dr. Kyl Smith: This is Dr. Kyl Smith. A doctor's true reward is helping people. My dietary supplement, called Focus Factor, is helping thousands of families improve their focus, memory, mood, concentration, and energy. Here's another message from our Focus Factor voice mail:
(:15)

Electronic voice mail "Beep"

Marlene Ware—Mother [:20]

This is Marlene Ware. I'm calling on behalf of my son. He's having a tough time at school, and this has made such a difference. He's remembering things. I can't believe it! I wanted to tell you how much of a difference it's made for my son...Focus Factor. It has made a tremendous difference.

Dr. Smith: Focus Factor is safe, it's natural, and it *works*. Call now so you can immediately begin improving your memory, concentration, mood, focus and energy. I'll even give you a free 30-day supply with your Focus Factor trial pack. (:13)

Announcer: Call 1-800-_____. That's 1-800-_____. Money back if you're not delighted. Call 1-800-_____. (:12)

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ocus Factor
50 Radio
chool's in Session
(17/00)

ISCI code FF16
File name Focus Factor RS 16

Dr. Kyl Smith (:48)— School's in session...and as a parent, more than anything else, you want to see your child do their best.

I'm Dr. Kyl Smith. I've seen first-hand how *frustrating* it can be when a child has trouble with focus and concentration. Parents come to me because their children are unfocused, distracted...and they just don't know what to do about it.

That's why I developed Focus Factor. It's an effective, all-natural supplement with one purpose: to give your child's brain the exact nutrients it needs to function at its very best.

Focus Factor is for students who need help with concentration and memory. In just a few days, your child will feel alert, focused, and mentally sharp.

And by the way, there's also an adult formula I created for grown-ups who want to improve memory, concentration, and mood.

Call now and *feel* the difference when you supercharge your brain...with Focus Factor.

Tag (:12) Ask how you can get a free 30-day supply of Focus Factor with your order!
Call 1-800-_____. That's 1-800-_____.

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ro: Well hello again...welcome to the Vitalbasics radio program. We bring you vital health information on over great radio stations covering all 50 states...and y'know what? I can count on two fingers—literally—the number of es I've actually invited a guest back on this program. Today is one of those times.

Kyl Smith is back with us at our invitation, and this time he's right here in the studio with us...came all the way m Dallas, Texas. Dr. Smith is an expert in nutrition, pediatrics and anti-aging. He's the founder and president of the eative Health Institute in Texas. Now, his claim to fame...the reason he's here with us today...is his fascination with ur brain. Specifically, how it works, how it functions, and what we can do—all of us...men, women, kids, teenagers, nior citizens—to make it perform even better. What does that mean? It means improving your memory so you don't rget your wife's anniversary or where you left the car keys. It means better focus and concentration so you can get ur work done without distractions. And it means having lots of energy instead of feeling tired and drained all the ne.

oday Dr. Smith is back with some brand new information that will *shock* you—like, is your brain *shrinking*? We'll lk about that. Dr. Kyl Smith, welcome back.

Vell, thank you, Bill. Again, I'm honored to be here.

f you would, for the listeners who don't know you yet, who didn't catch you the last time you were on, give us a quick ummary of your background...how you got into this field...and where you're coming from.

Well, Bill, it all began when I graduated from my internship and started build my own practice. I noticed immediately that people were coming to me with similar types of questions, and they all had to do with brain function. Let me give you a good example...

Moms would come to me and they'd say, *Dr. Smith, my son or daughter suffers with poor focus or concentration. Is there anything we can do that's natural that can help?* Business professionals would say, *Dr. Smith, it seems like I wake up in the morning in a fog...I can't focus on demand. I'm drinking coffee to try to stay awake and alert. And, to be honest with you, I'm in my 30's or 40's, and I'm starting to notice my memory's not what it used to be, and I'm afraid this is affecting my job performance.* And another one that I heard quite commonly. Spouses would come to me—usually wives asking me about their husbands, but sometimes the other way around—they'd say, *Dr. Smith, my husband comes home from work and he is mentally drained. It's like he doesn't have any energy left for me or the family. And worse, he brings home irritability and mood swings. I know you're helping people with mental function, please help!* Well, these consistent questions, led me to do an exhaustive search of the medical and nutritional research at the time to find out, is there anything we can do to improve concentration? Can we have a better memory as we age...30, 40, and 50 years of age? So the technology that came back from this search was the original technology that's in Focus Factor today.

Now, we have spoken a few times since our last program, and what I found fascinating is that, as you were doing this search... there's like over 3,000 clinical studies that you have accessed in putting together this new supplement called Focus Factor. Is that correct?

Absolutely. We are in the information age, there's no doubt about it. And when it comes to medical studies and nutritional studies on the brain—how it works, and how diet and nutrition can affect brain function in a positive way—there's tons of information out there...literally over 3,000 research articles right now done on the link between diet, nutrition and the brain. And the stuff we're going to talk about today is fascinating. We really can take control of our destiny when it comes to how we focus, think, and our memory.

And what also struck me is that this is such a huge problem. You had mentioned that the #1 reason why people go to their doctors these days isn't for little aches and pains or the sniffles...it's for irritability, it's for mental fatigue...memory, things like that. Is that correct?

mental function...poor mental function...mental fatigue. These are the #1 types of complaints in doctors' offices across the country. I mean...give you a good example: people in their 30's, 40's, 50's. Most people are lying on note pads, Post-It pads and planners just to get through the day.

eah, yeah.

hey tell me if they lose their little note pad they are sunk. And how many people can relate to going to the grocery store...you got just 5 things to get, milk's on your list. You come home...you got no milk. Or now...listen to this: listeners at home, think if you can relate to this: You're in a social situation—or maybe even worse, a business situation—you're meeting someone right now. This person's really important to you. You shake their hand. By the time your handshake breaks, it's like the name just falls to the floor.

'eah...

(ou're looking at him or her and you're thinking to yourself, *I was just introduced to them, and I can't even remember their name.*

it's embarrassing.

In a social situation.

Yeah.

...that's embarrassing. But think of it in business. Poor memory, a sluggish memory, can cost you your job performance.

So these are huge problems, and you have created a supplement—it's called Focus Factor—the response has been absolutely tremendous to it. And I want to read a few of the phone messages that we got after the last program...and you would not believe how many of our affiliate stations—we're on over 300 stations—and how many stations called up and said, *Do you mind if we run that show again? We got such a huge response, people want to hear it again...*

That's great...

So these are just a few of the phone messages we received, um... Here's a 65 year-old woman. She didn't say where she was from, but she said her husband ordered Focus Factor. She's been using it for 4 days. She says she cannot believe the change. She said she was slow and lethargic...she thought she was getting *dimwitted*...interesting choice of words there, and she says, *Focus Factor started working almost immediately. I felt like a different person.* And I know results will vary from person to person, but I found these very interesting. Here's a woman from your stomping grounds, Texas. She says she's in the insurance industry...a very fast paced office. Lots of multi-tasking going on. She says, *I've been taking Focus Factor for a couple weeks and saw a huge difference. Just unbelievable.* And I'm going to do one more here, because this shows how the product can help children as well...

Great...

A teacher in New Jersey—and also a mother. She bought Focus Factor for her son, who had trouble with focus and concentration. And she says, *he had trouble concentrating on one thing at a time. And Focus Factor has helped him to sit down and concentrate on one activity at a time. He gets his work done on time now.* And this is interesting: He says, *He wants to do more work now...*

Wow.

So she says, *We've seen progress with Focus Factor and will continue to order it.* So when you get a child who actually wants to do his homework, I think that's pretty incredible.

Doctor, I want to talk about seniors for a moment, because I understand they can benefit enormously from Focus Factor. And unfortunately, I think what happens is...when we see older folks in our lives—grandparents, aunts, uncles, even our parents—having trouble with memory or concentration, we tend to ignore them or brush them aside...or we even make fun of them...Y'know, *Gramps is just having a little slow today*. And You're saying if we were to just help them support their brain a little bit more, it could improve their memory and concentration a lot.

This is very true. As a matter of fact, seniors share with me that many times they're embarrassed because they do feel like they're a little slower. They many times have to ask their children or their grandchildren to slow down just a little bit...and that's embarrassing. I gotta tell you...speaking to seniors, when I do lectures across the country, or I do radio or television, seniors are one of my favorite groups to speak to. Why? Because they can be passionate about health. Many times, they want to make and improvement, and they want to make an improvement *now*.

Now. Yeah.

Most seniors will tell me they've been taking nutritional supplements for maybe years, and never noticed a difference in how they feel. Can you imagine? Well, the thing that seniors tell me that Focus Factor does is it gives them that mental spark, that energy like they used to have. They feel like their memory is more on-task. They can recall things easier with less effort. And the thing I really like to hear is how it improves relationships. And let me give you a good example: A lady comes up to me—an elderly lady—when we're filming a television program, and she says, *Dr. Smith, I gotta tell you about my husband. This man was the most cantankerous, irritable man you've ever met. All he ever wanted to do was sit in his armchair. But after taking Focus Factor, he gardens with me, we go on walks together...it's like I've got my sweetheart back.*

Hey, here's a letter from a 65 year-old woman I spoke with. And she says, *I tried ginkgo biloba for months, and it didn't do anything for my memory. But my memory is now wonderful since I've started taking Focus Factor. I noticed a difference within a couple of days.*

And I've got to answer a question here. Why does this happen? It happens because the brain needs much more than an herb or one nutrient to help it with cognitive function. You need protector nutrients—antioxidants that are shown to help protect brain function. You need nutrients that improve brain function, like the B vitamins. You need specific herbal extracts that may be precursors to neurotransmitters that science says improves focus, concentration and memory. You put these together in a comprehensive brain support product, and...what do you have? You have stories of better concentration...people going to work, getting more done in less time, coming home with energy to spare...instead of that old story of coming home and just being fatigued and lethargic.

Excellent. Well, uh, I can see we're running out of time here, so I have to take a quick break. We want to give you information on how you can get a hold of Focus Factor for yourself. So we're going to do that in just a moment. But right now I want you to listen to some of the people we spoke to recently, and how Focus Factor is affecting their lives. So take a listen to this, and we'll be right back.

Kelly Brown: My name is Kelly Brown and Focus Factor has been a wonderful product for us. It has tremendously helped my son with his schoolwork and at home also. The benefits that I have seen with Focus Factor for myself is...I'm a working mother—I'm very tired when I get home at night, I'm very stressed out. Focus Factor for me has just boosted my energy in the evenings to where I can keep going, I can keep up with my children. And afternoons at work, too, I don't get tired, I don't get irritable. I just...for some reason I'm just wide-eyed and ready to go!

Roger Thompson: My name is Roger Thompson. I've been taking Focus Factor for about 6 weeks now, and the results have been just phenomenal. My mood has improved dramatically. I'm better able to focus and to communicate with other people. I feel a lot better. Focus Factor has made a huge difference, and I would really love to thank Dr. Smith for coming up with this and making it available to the general public. It's a super product, and I'd recommend it to anybody who's busy, stressed-out or just needs a little boost in their lives. It's just great.

Millie Hull: My name is Millie Hull, and I have tried Focus Factor after trying many other supplements which *never* worked for me. I thought they would just sit in my stomach and not even dissolve. Focus Factor is different. It *does* work. It clears the 'foggies' from the mind and gives you the energy you need to go do what you need to do. I have 3 grandchildren that I take care of...I have the energy for them now, as well as working a full-time job. I can do all these things and have the energy to still have time for recreation. And I have the clearness of mind to get things done that I need to do and think clearly to do these things. I just love Focus Factor.

TA #1)

And we're back. Welcome back to the Vitalbasics radio program. This is Bill Begley, and my special guest today, back for an encore, is Dr. Kyl Smith, the founder and president of the Creative Health Institute in Texas, and the creator of this amazing supplement called Focus Factor. Recommended for seniors, students, men, women...and doctor, I've been taking it myself. I've been taking it for about 6 months now. I'm going to tell my own story a little bit later on in the program, but it's helped me dramatically, so...

Wonderful.

So...in your experience, who do you find benefits from Focus Factor? Any specific groups of people?

Well, everyone...it doesn't matter if you're a business professional, a senior, a teen, or a child, you have a need to support the most important organ in the brain. Focus Factor's perfect for that. It provides specific dietary supplements, or nutrients, that enhance the brain's ability to produce mental energy. We all need that. I mean, think, today many adults are suffering with poor memory. And many times they don't notice it in the beginning. It sneaks up on them...

Yeah, yeah.

Meaning that we rely on Post-It pads all around the house. We gotta write things down to remember it. If you lose your planner you're lost.

Yeah.

Focus Factor's important for all of us. Some of the most touching stories I...come from parents who've given the product to their children, and they see what they call a *transformation* in their child. They seem interested in things in the past they weren't interested in, and one of the curious intangible things parents say is many a times they see an improvement in their child's self-esteem. That makes a world of difference to me. As the formulator of the product, that touches me 'cause that's exactly what I formulated the product to do. Seniors tell me they get that mental spark, that mental edge back that they've been looking for for so long and they feel like they've lost it...they've found it again...and business professionals. They tell me that they can go to work, they feel like they get more done in less time and come home with energy to spare.

Well the big buzzword these days in business is *multitasking*...

Exactly.

...which basically means you have to do 3 people's jobs instead of just your own job. So I know we've spoken with a number of people who use that word...it's just a buzzword these days...multitasking. People are able to shift from one project to another very easily...

...and not lose the project.

Exactly...not lose the project. And be able to complete each project...or see each project through...finish it...and do a good job.

Exactly.

I take it the reason this is so effective is because the ingredients are more easily absorbed by the brain?

actly. Specific nutrients cross the blood/brain barrier readily. In other words, the brain accepts these nutrients. It finds them as foodstuffs. These are the nutrients we've used in Focus Factor to enhance brain function.

o if you're taking the wrong nutrients, it's kind of like putting a square peg in a round hole. It just can't go in. But if you have the right nutrients, it's just a nice fit, and the brain gets it and...boom.

ery close. If you're taking the wrong nutrients, quite frankly they pass in the stool, and they don't even absorb through the bloodstream. If you're taking the right nutrients...I guess your analogy is great...if you're taking the right nutrients they easily pass through the digestive system into the bloodstream, delivering their benefits to the cell, where you want them.

Okay. Now, this was originally only available through doctors' practices. What are...what's the medical community saying about this?

We have had phenomenal success across the country. What we call it is a grassroots movement because originally, Focus Factor started just by word of mouth referral from doctor to doctor...from patient to family. The reason I attribute that success is the fact that Focus Factor works. I mean, very quickly doctors realized they could take this product themselves, or recommend it to a patient, and that person would come back to the doctor in just a few days or weeks and say, *Hey Doc, what did you give me? It's like this cloud's been lifted off my head. I can focus, I can concentrate. I've got my memory back! Thanks, Doc!* Well, what's he going to do? He's going to recommend this product to virtually anyone in his practice that are suffering from poor mental function.

Sure.

He's taking it himself, he's recommending it to other doctors. I think this is why we've been so successful across the country today.

And I have some comments from some of the doctors we've spoken with. For example, this is a medical doctor...this is an M.D. named Lee Cowden, Dr. Lee Cowden. He's a cardiologist, and internist...and he says, uh..."Compared to other supplements on the market, the nutrients in Focus Factor are present at better levels (that's what we just talked about) and in the ideal forms more likely to enhance brain function. Taking Focus Factor results in a significant improvement in memory, concentration, and overall well-being." Pretty strong comment from a medical doctor.

Wonderful.

Here's a doctor, Gary Sconyers, who says, "I've seen Focus Factor firsthand as a doctor and as a parent. (I think that's important) When my son started taking it, he became more consistent, and his self-esteem improved by leaps and bounds." So a few powerful comments from the medical community. I think it's neat that it's been accepted, and I think it adds a lot of credibility to you and the product...the fact that is *started out* with doctors.

And I've got to tell you, in the beginning, doctors were skeptical. Now, this is an innovative product. It literally provides the nutrients the brain needs for enhanced mental function. Well, doctors first tried it on themselves and their children. Now this was neat because they became advocates for the product, recommending it to virtually everyone.

Okay, we have to take a quick break in just a moment. But very quickly I want you to listen to some more people in their own words and what they're saying about Focus Factor. And we'll give you the opportunity to call the 800 number—toll-free number—so you can get Focus Factor for yourself and for your family...and listen to this...

Paula Clark: My name is Paula Clark and I live in New Jersey and I have a pretty hectic life. I'm a working Mom. I started Focus Factor for my child who is 10 years old who was having a tough time focusing in school and staying on-task. I found that Focus factor...after one week I saw a noticeable difference. I saw that his homework assignments were being accomplished and being done. He has a happier feeling, a happier mood. So I then decided then, well, if it's working so well on him, I'm going to try this also, seeing that I do I do have my mood swings. I tried it and it really has improved my life as well. Now my whole family is taking it—my 15 year old, my 10 year old, myself—I gave it to my husband and he loves it too.

Jack Huff: My name is Jack Huff. I'm in Lake Havasu City, Arizona. I've been taking Focus Factor for 4 months now. And I really feel it's helped all areas of my life. Being able to focus, which is a great... Focusing, sometimes you might not think it's that big of a deal, but it's really the key to a lot of things—focusing—and that'll lead you through projects. It's helped my relationship with my wife, believe it or not, just by not being so down and in kind of a dark mood situation. Lots of energy to go do the things I want to do. If you want an extra boost—not just a little extra boost, it's a major turnaround contribution to your...being vital to feeling alive...being able to go do stuff without worrying about being drained mentally or physically.

Sally Nelson: My name is Sally Nelson and I've been taking Focus Factor for ten weeks now. The thing I found when I first started taking it is my energy level in the afternoon gradually came up to the point where I feel very focused, I feel very energetic and I feel very excited about my life in general. I feel alive—that's really what I want to say. I feel very alive, very energetic, very focused. And I feel very excited.

(CTA #2)

And welcome back to the Vitalbasics radio show. Bill Begley with our special guest...back for an encore appearance, Dr. Kyl Smith. He's the founder and president of the Creative Health Institute in Texas, and also the creator of Focus Factor. This is the supplement that is designed to literally supercharge your brain. And doctor, before we go, I want to bring this up. This really freaked me out. I gotta tell you...when I learned that, after the age of 30, the brain begins to shrink??

Exactly.

Tell us about that.

I hate to tell you it's true. After the age of 30, after we pass by that magical age where you notice that spare tires comes on easier, and our health starts to decline, one of the medical facts is the brain slowly begins to shrink in its size. In addition, between the age of 30 and 55, we'll lose about 25% of the synapses in the brain. In addition, about 80% of people above the age of 35 complain that they notice their memory is not what it used to be.

That makes sense.

But the good part is...science shows us today that there is a lot we can do to support normal mental function.

Now for folks who are just tuning in, give us a quick recap...20 seconds or less...what is Focus Factor and what does it do?

Focus Factor is a totally unique dietary supplement that feeds the brain. It does this by providing specific nutrients that enhance the brain's ability to produce mental energy. The second thing that Focus factor does is it provides nutrients your brain is starving for that enhances focus, concentration and memory by naturally enhancing neurotransmitters in the brain.

All right, I want to read a few more letters from people who have written us based on the last radio program that you did with us. Very quickly... "No more monthly highs and lows." A woman who's a business professional, a wife and mother who says, *I feel like my brain functions better. I have more energy. My mood swings are not the highs and lows that they used to be.* And one more. This is a woman in her 50's who's a registered nurse. And she says, *We interested in Focus Factor because of the natural help we thought it would bring to kids with poor focus and concentration. We've seen positive results with it. We've seen their ability to concentrate and improve the focus that they have on their work.* Now she says, *I have been taking Focus Factor myself. It worked for me within the first week. I've noticed that my thinking is more clear. I'm able to remember more, focus and get rid of "cloudy thinking"...*

Wonderful.

As she calls it. How does that make you feel when you hear all these positive stories about a product that you did the research on and created yourself from scratch?

Bill, I have to tell you: I never imagined that Focus Factor would provide the benefits for people that they're telling us it's providing for them. I mean, I created the product to enhance focus, concentration and memory for myself, for my patients and the people I was lecturing to. What I never, ever imagined are the stories that would come back. The life-enhancing stories. As seniors say, it gives them their mental spark back. It motivates them to do things that are actually good for them, like walk and garden. And to think now that the product is in the hands of artists, athletes, pro football players, actors...and now I'm being told that my product is being taken by a gentleman in NASCAR. Bill, this is like a dream come true for me.

That's tremendous, and if I may...do you mind if I share my story...

I'd love for you to.

...about Focus Factor? You gave me the product and I started taking it. And I gave it a good 30 days. And I was going to see the movie *The Patriot*—it was a big hit—and I just wanted to do a little homework, to kind of brush up on the revolution and learn a little bit more about it so I would understand the movie better and what was happening. So here I am taking Focus Factor, and I pulled out this great big 'coffee table book'—it's about 400 pages. It's a very dense book about the Revolution. And I'm reading and I'm reading...and it's coming to life for me. Even though it was written in a very dry way—it wasn't the most excitingly written book. But for me, I was absorbing it very well, and what's most remarkable, is when I was done reading, I kept the information...it was retained.

Wonderful.

I can still rattle off the names of British generals and Lords and prime ministers and where battles happened...and who's army did this and who's army did that and all that kind of stuff. And it was fascinating. And I found that Focus Factor really helped with my memory, with my ability to concentrate on the book, and my ability to comprehend it.

Wonderful.

It was tremendous.

Bill, why didn't we have this when we were in college?

I don't know! My grades would've been much better, I'm sure.

I wish I did...

...if we'd had it. So I personally want to thank you for introducing me to this product, because it certainly has had a profound effect, and not just with that one book, but I'm finding just in general I'm remembering things better...I'm comprehending...I'm *focusing* better. We mentioned earlier the term *multi-tasking*, having to do many things at once. When you're in radio, you're multi-tasking every single day. And I'm finding that it is, in fact, easier to do all these tasks and complete them and do them well.

ell thank you. That means a lot to me.

y, we're just...we're outta time here. So Dr. Kyl Smith, thank you for joining us in the studio—flying here from
allas, Texas to be my guest.

hank you. Bill, I appreciate so much all you've done in sharing this with other people.

'ell, when something works, you tell people about it, that's all. Folks, thanks for joining us folks here on the
italbasics radio program. We will talk again soon. Thank you, and take care of yourself and God bless.

CTA #3)

TA Copy: Hi, this is Bill Begley. I want you to think about the last time you really felt *good*. A time when you were
nergetic, focused, and mentally sharp. Picture taking all that positive energy and putting it into a tablet—a tablet that's
ll-natural, effective, and as easy to use as putting your shoes on in the morning. That's the best way I can describe
ocus Factor. I take it every day to keep me focused and energetic, and countless people who have heard this program
cross the country have called to say they love it, too. For more information on how you can try it risk-free, call this
oll-free number. It's 1-800-_____. That's 1-800-_____.

Call now and mention the Vitalbasics program and you can even get a free 1-month supply to try with your order. Ask
or details. Focus Factor is for senior citizens...working moms...students in every grade level...business
professionals...anybody who wants and needs a natural boost in their memory, concentration, mood, and energy.

There's a 30-day money back guarantee. Call and ask about the doctor's special offer. It's 1-800-_____.
That's 1-800-_____.

BILL: Hi and welcome to the *VitalBasics* radio program. I'm Bill Begley. This is the health and wellness program you can hear on over 200 radio stations from coast to coast. We're in California, Massachusetts, Florida, Texas, Hawaii, Alaska...you name it, we're there, and we appreciate you tuning in today. Thank you very much for joining us.

Today we're going to talk about the most important thing in your life...and, for that matter, the most important thing to your children. It's not your job, or your money, or your house or even your car. Y'know what it is...the most important thing? It's your *brain*. Yes it is. Because when your brain...or your mind...isn't working the way it should, nothing else matters...nothing seems to go right. It's like a dead battery. But think about it...and again, think of your children...when your brain is working the way it should...you're energetic, you're in a great mood, you get more done, you're more outgoing and likable...you stand out from everyone else...and it doesn't matter if you're 5 years old or 105! Now, grab a pencil and a piece of paper, because what we're going to do is give some incredibly useful information this half-hour on how you and your children can supercharge your brain. I'm telling you, it's easy, it's systematic...it's a technological breakthrough that's *sweeping the nation*. If your children have trouble behaving or concentrating in school...or if you have older relatives or friends who seem to be losing their mental edge...even if you're in business and you have trouble staying focused or "on task" during the day...please listen at least for a few minutes because you'll be able to help yourself and the ones you love. Okay? Okay.

My guest, on the phone with us today, is Dr. Kyl Smith. He's Founder and President of the Creative Health Institute in Texas. He's a recognized expert in the field of nutrition, pediatrics and anti-aging. He's Vice president of Education at the Texas Integrative Practitioner's Association—it's a non-profit agency that includes Medical Doctors and alternative health practitioners and so on. And he's also been a Senior Advisor of Research and Development for a major pharmaceutical company. *Thousands and thousands* of hours, folks, this man has put into this breakthrough, this *secret* that we're going to let you in on today. Dr. Smith, we have so much to talk about...it's a blessing to have you on the program. Welcome!

Kyl: Thank you, Bill. I'm honored to be here.

Thank you very much for joining us. Now, we *all* feel run down from time to time. We all get cranky and tired...we get that foggy feeling...sort of what we call mental fatigue. But lately it seems like it's reaching epidemic proportions. Would you agree with that?

Absolutely. I mean we see this in our children. We have obviously many children, several with lack of attentiveness; lack of ability to focus and concentrate, but this is permeating teens, adults, and senior citizens. Many people say that they come home and they just don't have the energy to give to their families—their husbands, wives, and spouses—what they need to after they get done with work. In other words, they are so drained; their mental batteries are so drained when they get home from work they just can't be the people they want to be.

I know you've done a tremendous amount of research behind this product...folks, it's called *Focus Factor*. Dr. Smith, what's the story behind *Focus Factor*?

It really all started when I was finishing my internship and starting my own practice. You see I was sitting there day after day in front of patients that had a similar complaint—and this is as true today as it was 7 years ago. Patients would come in and they would say, Dr., I'm tired. Like I said I have to drink coffee in the morning to wake up and I have to do something in the afternoon like caffeine to stay awake. Or they'd say, "My child has problems with attentiveness and focus and concentration in school." Or "My spouse is irritable when they get home from work. Is there anything we can do that's natural, that's good for them that can help them?" Well, Bill this question got under my skin. It really bothered me because I was suffering with the same exact thing.

So, you're in the same boat as the rest of us.

Exactly. We all were. So, of course the first thing I did is I did the easy search. I went out to doctor friends of mine, physicians, and asked them what do you say when your patients ask this question? And none of them had a good answer. They would say typical things like, "Tell them to reduce their caffeine intake 'cause caffeine kills your energy in the afternoon." But I'd say to them, "Well they're drinking caffeine like I am because they're tired in the first place. What do you do?"

It's a vicious cycle.

It's a vicious cycle. So I created this product for my own practice and it became so popular a USP pharmaceutical company picked me up and said, "Dr. Smith we want you to create a product specifically for kids." We did that and then they put me on my first tour and Bill I went out there and I was shocked. I was taken aback by the results people were getting in their lives. And they weren't the results I expected. Like, I built the product to help improve focus, concentration and memory.

Right.

But what happened is that people were coming to the lectures with stories about how it had transformed their child's self-esteem. Let me give you an example. This one lady stood up and it was I think, Rochester, Indiana. She stood up and she said, "The thing that touches me about Focus Factor is how it's changed my son's life." "My son was the child at school that nobody wanted to play with. He would throw temper tantrums and disrupt class if he didn't get his way. After giving him Focus Factor for just one week, the teacher wrote a note home and said what are you doing different? Your son is sitting still and he's completing his work."

Wow, so the teacher noticed this?

Exactly, in just one week. Now the Mom said...again, she was sitting there crying, and this really shook me too. She said, "The thing that touches me is my son is going to be a different man because of this product. Instead of being the boy that goes to school without interpersonal relationships, instead of being the child that no one seems to like, he's nurturing friendships and his self-esteem is improving. That's when I said to myself this has to be my God-given mission—to teach people about nutrition and the brain. It's important for kids because their every-day experience translates into who they feel like they are. But it's the same for us adults, too. If we have good days on top of good days, this compounds and it improves our self-esteem. And I picked up somewhere along the line in my lectures this statement: "To do really good in life, you've got to feel really good." And that's what Focus Factor is all about.

Well, and it's such a unique product, too. I mean, there are products out there...you hear about them all the time...for things like prostate health, and cardiovascular health and so on and so forth. But I have never ever ever heard of a breakthrough like this that specifically targets the most important part of our body—the brain.

The brain. The very organ that determines how we feel when we wake up in the morning and how we feel when we come home from work. The organ that's gonna determine what kind of day we're going to have this afternoon, and if I'm in a business where I have to talk to people, how I'm going to communicate with them. It's going to determine when I come home what kind of spouse I am and parent because of my mental energy reserves. If our mental batteries are drained, it's going to affect how we relate to our world.

Is there anything unique about the brain versus, say, other organs in the body in terms of what it needs to produce that energy?

Absolutely. The brain seeks specific forms of nutrients for energy production, and this is key. If you happen to find a magnesium from the wrong source, you're not going to produce mental energy from that magnesium, no matter how much you take. So we selected exactly the types, the sources of nutrients, that the research showed was necessary to improve brain function.

So it's kind of like putting a key in a lock. You know, if you have the wrong key, it's not going to open it up.

That's a great analogy, exactly.

In fact, we have someone who knows exactly what we're talking about. Anita Sohn is with us. She is a school administrator. And listen to this, this is an amazing story: She put her entire *class* on Focus Factor. Anita, welcome to the program. Can you tell us why you did that and what happened?

Anita Sohn: Surely. We were having such great challenges with kids being able to focus and being able to actually sit still and concentrate and do their work. And a year earlier, both my children had gone on the Focus Factor. And we had seen such a marked difference, when the parents would come and say, 'what can we do about this?' then I would start to tell them, 'Okay, this is what I would do in this situation. And it couldn't hurt, it can only help...try it.' So they started, one by one, each child started testing out the Focus Factor. And, as a result, my entire class was on the Focus Factor. We have just...we've had just a wonderful time on it.

So you put 'em on the product...you talked to their parents first...but you put 'em on the product, and what you found was that in many cases the kids seemed more attentive, they got better grades some of them?

Anita: Definitely. Now, I've been on the Focus Factor personally myself for 2 years. When I got on it and started finding the difference that the supplement makes on a daily basis...not just when I need it...I am the most awesome woman on Focus Factor, as well as my children.

So I think it would be safe to say you're a believer in this product.

Anita: Oh, very safe to say.

Well, Anita, it has really been an honor to talk to you. I know you're busy and I don't want to take up any more of your valuable time...you've obviously got more important people, your students, to spend some time with. But thank you for being with us today, and telling us this very amazing and important story.

Anita: No problem! Thank you. Bye-bye.

Bye bye. Now, back to you, Dr. Kyl Smith. Obviously some fantastic and life-changing results with children. And folks listening...imagine having the best of both worlds with *your* kids: Better behavior and better performance in school. That is something that's pretty much unheard of these days. But doctor, you say that men and women got hold of this stuff after the kids tried it and they love it too.

Absolutely. The typical story that we get is a parent, let's say a mom, would typically buy Focus Factor for their child because they wanted to enhance their ability to focus and concentrate in school. And pretty soon, their son would come home from school and say, "Mom, I had the best day. I aced my test and I finished my homework before I got home." And the mom would say to herself, "I need this stuff. I need to go to work and get my work done before I come home. I need to come home with energy to spare and have less irritability." So pretty soon the mom would start taking the product. She'd love it so much she'd tell the dad about it. Pretty soon you'd have family after family, doctor and physician after physician referring the product to more and more people.

Okay, we have to take a quick break. But coming up we'll talk with some doctors who recommend Focus Factor to their patients; as well as a member of the House of Representatives from the state of Texas. We'll hear how he's become a better lawmaker and a better husband and father because of Focus Factor—a very dramatic story. Right now, it's your chance to call our toll-free telephone number so you can get on a 30-day, risk-free trial of Focus Factor and try it for yourself. So let's take a moment and do that now.

CTA #1

and welcome back to the VitalBasics radio program. I'm Bill Begley and our special guest today is Dr. Kyl Smith. He's the creator of a product called Focus Factor. Fascinating story behind it. It started out as supplement to help kids with learning and behavior problems—and I think we all know that can be such a nightmare...so it helped with that at sort of a grass-roots level, but then adults starting using it because they found that it had this amazing effect on their own memory, energy, mood...and just their ability to stay "on-task. Earlier this week, I had the great pleasure to speak with some people who say that Focus Factor has dramatically improved the quality of their life. So folks, if you or anyone in your family could use a little help with mood or energy, concentration or memory—just sort of clearing out the mental cobwebs—please listen to this. Jon, if we could, let's roll the tape.

Silke Jones: My name is Silke Jones and I have been taking Focus Factor for about six months. The reason I started taking Focus Factor was because of the product benefits. It helps eliminate mood swings that...it gives you a little pick-up, so to speak, during the day to where you don't get the doldrums in the afternoon. That really got my attention because that is me—right there. I've attributed a lot of mood swings or depression here and there, you know, to just the age I'm going through right now, y'know, being a woman. So when I started taking Focus Factor, I was just surprised how quickly I felt a difference. It was amazing. Everybody I've talked to that I've recommended it to that has taken it has said the same thing.

Kristin Rister-Wheatley: My name is Kristen and since I've been taking Focus Factor I have gotten tremendous results. I have more energy. I have a more stabilized mood. I feel like my brain functions better. I'm on top of my game. Everyone knows that women, especially women, go through mood swings especially during certain times of the month, certain times of their cycle, and I have noticed that my mood swings are not the highs and lows that they used to be. I am a much more steady, calm person. I think it's very important that parents try Focus Factor with their children. Personally, it made a dramatic difference in my daughter's performance the way she felt in school—the way she could concentrate. I've shared it with my friends. I've shared it with my family. Everyone feels the same way. We all love Focus Factor.

Dr. Smith did you have any idea when you created this product, Focus Factor, that it would have this kind of affect on peoples' lives?

No I didn't. And like I was saying previously, I developed Focus Factor to help enhance focus, concentration and memory. So as a doctor, I'm expecting to hear stories about focusing and concentrating. What I never imagined is how this would impact our lives, on a very personal level. For instance, when we were filming a television program around Focus Factor I had a wife say that she felt that this Focus Factor saved her marriage. She said that her husband and her both now come home from their work with more mental energy, less irritability, they can relate and communicate better and, maybe most importantly, they're patient with each other when they communicate. She said this literally saved her marriage. I hear stories from people constantly about the benefits that this product brings in their lives that I would have never imagined.

Well, I know that everybody's a little bit different and results will vary from person to person. But in your experience, how quickly does it work?

Focus Factor...we see a noticeable improvement in the way a person feels it doesn't matter if it's a child, a teen or an adult, in 1 to 10 days. Now I typically tell people, stay on Focus Factor each and every day consistently and you'll notice a difference within 2 weeks. But I've got to tell you Bill that most people come back after the first day and they say, "Wow, what did you put in this stuff? I haven't felt this good since I was a teenager." We've got senior citizens say, "Dr. Smith, you've given me my life back. I now have that energy—that mental energy—that I used to have when I was a child." Stories like this, it's just incredible.

And this is different from regular multi-vitamins in that you're going to actually feel this working pretty quickly, right?

There's a big key there, and that's another great question. It's very common when I'm in a live audience that I'll ask people to stand up if they are taking a multivitamin. Now, almost everyone stands up. But then I ask the people to sit down who are actually feeling a difference from that vitamin they are taking, in some way, shape or form, energy or they feel healthier. And the only people who sit down are the people that tell me they are taking Focus Factor. The rest of the people standing up, which is usually the majority of the people who haven't been introduced to the product yet, will tell me that they have been taking a vitamin for years and they have not noticed one benefit.

Yeah that's a really good point. I don't know anybody who says, "Oh, I take a multivitamin and I feel great." You know, they just kind of take it. It's just something they do, and they never feel any results from it.

Right. And my goal and my dream, my desire is to educate people that we should expect much more from our nutritional supplements.

All right, we'll continue our discussion in a moment. But right now I want us to listen to some doctors and what they are saying about Focus Factor. Folks, these are people we spoke with earlier this week. First we're going to hear from Dr. Shawn Sieracki and then from Dr. Jim Van Meter. These are doctors who recommend Focus Factor to their patients—adults, children, seniors—some very interesting comments here. And Jon, if we could, let's roll the tape.

Dr. Shawn Sieracki: I first heard about Focus Factor about a year and a half ago. Dr. Kyl Smith introduced it to me at a seminar. And he passed out a few of the Focus Factor tablets. From that point on I've been hooked on Focus Factor. It helps calm the mind. And it enhances brain function. That is what I am finding it's doing for women, men, and children as well. It's an excellent product just to help enhance the brain function. I believe that Focus Factor is the very best brain support product on the market. Focus Factor helps children or adults with mental fatigue...poor focus and irritability...it helps to keep that under control. I believe Focus Factor is the best supplement on the market for memory control and memory function—not just with children, not just with adults, and not just with seniors...it hits *all* ages, and it gives all ages the right amount of nutrients for the brain.

Dr. Jim Van Meter: This is Dr. Jim Van Meter. Every time I ever research anything, I always try the product on myself. Number one, if I can't be convinced that it's a benefit to me, why in the world would I ever give it to anyone else? My son has been on it, my daughter's been on it, my son-in-law's been on it...um...everyone in my family is on Focus Factor. Number one, yes it has vitamins and minerals in it. It also has essential amino acids and things that are *also* in here that stimulate the brain to make the brain think, focus and recover facts numbers, words, definitions, etcetera. Where normal multi-vitamins and mineral has *nothing* to do with it and can't *ever* turn your brain on to thinking. It's a product that everyone can trust, and be wonderfully happy that they are giving their children and their family the very best that can be given to them to be able to achieve every goal they set out for.

So there you have just a few of the many doctors who recommend Focus Factor to their patients. These doctors were not paid in any way for their comments today. Dr. Smith, there are obviously thousands and thousands of supplements out on the market. Out of all these products, why is Focus Factor getting all this attention?

I think the bottom line is Focus Factor works. Physicians recommend Focus Factor across the country because they realize very quickly it works for themselves and it's working for their patients. And it's helping improve lives in many different ways—from the improved focus and concentration to improved emotions, feeling like you're going to have a better day, feeling like you're on you're game. And this results in referral after referral after referral. And as you know we have distributed this product throughout the US and Canada for five years now. The exciting thing is Focus Factor is now available direct from the manufacturer, so people can get a hold of Focus Factor and not have to pay that expensive office visit.

All right, I want to take another quick break here. Folks now you can try Focus Factor...I hope you will, for yourself, for your children, your spouse...absolutely risk-free—even the phone call is free, and we're going to give that number up in just a moment. And we'll be right back to talk some more with Dr. Kyl Smith right here on the Vitalbasics radio program.

CTA #2

And welcome back. Bill Begley talking with Dr. Kyl Smith about Focus Factor. This is a ground-breaking supplement sweeping the country right now that helps supercharge your mental edge—your brainpower. And we're talking about some incredible benefits here with memory, concentration, mood, energy—absolutely remarkable for children helping them overcome learning difficulties and behavioral challenges—seniors who are starting to feel the mental effects of getting older. Men and women who are trying to juggle family and work. Absolutely remarkable product. And it is my great honor and pleasure right now to have on the phone with me Representative Rick Green. And Rick is with the state house in the State of Texas. And he uses Focus Factor himself and his family. Representative Green, welcome to the program. Thank you very much for joining us.

Rep. Green: Glad to be here, thanks for having me.

Now, what's your story with Focus Factor?

Rep. Green: Well, you basically listed the reasons I was looking for something like Focus Factor. I was elected 2 years ago, and in our Texas legislature we meet for 140 days and we cover 6,000 bills in that short time frame, and trying to juggle that and practice law and run a business and spend time with my boys is not an easy thing to do, and I'm used to managing all of those different things but just being stressed out all the time, and not really enjoying the time that you *do* get with the family and I wanted something that wouldn't just affect me physically...I mean, I've had vitamins before that I could tell a physical difference...but with this product I was looking for something that would give me the mental clarity to deal with all these different tasks at the same time...and that was what I had been told about Focus Factor...started taking it about a year ago and found that was *exactly* the results. I felt a major difference in being able to manage different tasks, and focus on that task instead of, y'know, how you...you'd be at lunch with one person meeting on one thing, your mind's wandering off on all these other things you're supposed to be doing. Taking this product made a significant difference to where those things wouldn't happen. I mean, I could...whatever the task at hand was, I could concentrate on getting that done knowing I had these other things to deal with...

Sounds to me like you give a whole new definition to the phrase multi-tasking.

Rep. Green: [laughs] If there's a multi-multi-tasking, then that would fit.

Now, it sounds to me like you've really personally benefited from this. Do you feel like your family has benefited as well?

Rep. Green: Well, my 4 year-old has been taking the chewable vitamin, which...I took the chewable Focus Factor for awhile myself before I got on the adult Focus Factor. And the great thing about it is, we've always tried to get him to take a vitamin of some kind, and when Dr. Smith came out with Focus Factor it was the only one that he'll say, 'I want to take my vities!'

So he likes the taste.

Rep. Green: He likes the taste, so that's a significant advantage over most of the products that are out there.

What would you say to our listeners who might still be skeptical about Focus Factor?

Rep. Green: Well, I think, um, being someone...y'know, personally I've always been interested in taking supplements and vitamins and those kinds of things, so it was a lot easier, um, for me to make the decision to try something that I thought was gonna help what I was looking for. A lot of times we spend money on something that's supposed to be doing all these great things but you never feel it, you never notice if it did. With Focus Factor you're going to actually *know* that there's something different in the way that you are operating as a human being. Your brain's working better, your body's feeling better. I mean, with a product like that, what have you got to lose?

And your experience has been that it's really changed your life, helped your family, it's been good for your kids. Sounds like it's been great for you.

Rep. Green: And let me tell you, I can tell when I *don't* take it.

That's interesting. That's very interesting. Because, that's always an important test of a supplement, incidentally, is if you feel a difference when you *stop* taking it.

Rep. Green: Right.

Well, thank you very much for coming on the program today, Representative Rick Green. I know you're very busy and we appreciate you dropping by for a few minutes.

Rep. Green: You bet. Y'all have a great one.

Dr. Smith, what goes through your mind when you have a state representative tracking you down to tell you what a great product you have?

It's amazing to me. I never imagined that Focus Factor would enhance so many lives across the country. And I really love to hear testimonies from professionals like Representative Green who have the ability to really impact thousands of lives with what he does every day.

Well, I'm looking at the clock...we're almost out of time. Are there any final words of wisdom you want to leave our listeners with?

Absolutely. I want people to try this product because of what I've seen in my own life and I've seen across the country happen for people who take it. I mean think of how many times you've walked into a room in your house, you got there and you said to yourself, "What am I doing here?" How many times have you misplaced the car keys? Or, how many times have you gone through the embarrassing experience of meeting someone, you're being introduced right now someone from a friend, you meet them, by the time your hands part the name falls to the floor.

Happens all the time.

We're all having problems with memory today. It's not our fault. We have an innate ability to have an awesome memory. All we have to do is feed our brain the nutrients it's starving for to enhance energy production. And Focus Factor supplies those nutrients. And you have an opportunity to try this product and experience what it can do for you firsthand.

So it's kind of like memory in a bottle.

Exactly.

Folks, it has science behind it. It's recommended by doctors, parents, kids who say they can focus and concentrate better, seniors can benefit enormously...if you're in business, this is a must. A remarkable scientific breakthrough. The first of its kind. And Dr. Kyl Smith, thank you very much for coming on the program, being our guest and bringing us this information. I know you're a very busy man and we wish you all the best with Focus Factor.

Thank you Bill. I've enjoyed it.

Folks, we're simply out of time. I'd like to thank our engineer, Jon, today for all of his help and assistance. And definitely thanks to all of you for making this, once again, one of the most popular health and well-being programs in the country. We're on over 200 radio stations from coast-to-coast and it's all because of you. Thank you very much and we look forward to talking with you again very soon right here on the VitalBasics radio program. Til then, take care and God Bless.

CTA copy: Hi, this is Bill Begley. If you would like more information about *Focus Factor*, the supplement that supercharges your brain, please call toll-free: 1-800-_____. That's 1-800-_____.

For over 5 years, Focus Factor has been available only through doctor's offices. But thanks to a special arrangement with Dr. Kyl Smith, you can now get on a 30-day risk-free trial *direct* from the Creative Health Institute. Mention the VitalBasics radio program when you order, and you can even get a 30-day supply absolutely *free*.

Focus Factor is effective, all-natural, and guaranteed to give you noticeable results *quickly* or your money back. There are two formulas: the berry-flavored chewables for children...and the easy-to-swallow tablets for grown-ups.

Call now and be sure to ask about the doctor's special offer. It's 1-800-_____. That's 1-800-_____.

Hi and welcome to the *VitalBasics* radio program. I'm Leisa Hart.

Are you under a lot of stress trying to juggle work and your family? Do you sometimes have mood swings or trouble remembering things? Or maybe your child has behavior problems or learning difficulties. Well, listen up, folks. We're going to discuss a revolutionary breakthrough that is literally sweeping the nation. It's helping countless people of all ages get back their mental edge. My guest today is Dr. Kyl Smith, founder and president of the Creative Health Institute in Texas. He's a recognized expert in the field of nutrition, pediatrics and anti-aging. He's Vice president of Education at the Texas Integrative Practitioner's Association—it's a non-profit agency whose members include Medical Doctors and alternative health practitioners. He's been Senior Advisor of Research and Development for several major health care and pharmaceutical companies. And what brings us to today's topic is he has conducted *thousands* of hours of research to create this new breakthrough called *Focus Factor*. Dr. Smith, we have so much to talk about...and I am so glad to have you on the *VitalBasics* program.

Thank you. I'm honored to be here.

This is an incredible story. And I want us to start at the very beginning. Tell us about what inspired you to create *Focus Factor*?

It all started really when I just graduated out of my internship and I was creating my own practice. You see, every day it seemed patients were coming in with a similar question. They'd say, *Doctor, I am tired and fatigued all the time. I feel mentally foggy. Is there anything that's natural and that's good for me that's gonna boost my energy levels?* Or they'd say something similar like, *Y'know, my son has problems with attentiveness in school. He can't focus and concentrate, and it's affecting his academic performance. Or...or the best one: the wife would say, Hey, my husband comes home from work and he's drained. He's irritable, he has mood swings...he's just, it's like his batteries in his brain are drained at the end of the day. Is there anything that we can do to boost his energy levels and get rid of those mood swings?* Well, the problem was, these questions, these constant questions, got under my skin because I was suffering with the same thing. I mean, I was that guy waking up in the morning and drinking coffee just to try to feel good, and I was drinking some kind of caffeine in the afternoon just to try to stay awake. And I felt guilty because I didn't have a good answer. So what did I do? I went to other physicians and I asked them, *Hey, what do you say when your patients ask this question? Did I miss something?* And they didn't have a good answer, either. They'd say something like, *well, cut your caffeine consumption out. I'm thinking to myself, well, that's why we're drinking caffeine! We feel tired in the first place, right?* So I looked for a solution, and ultimately this led me to do a medical and nutritional research search of all the nutritional information that's out there...regarding nutrition and the brain. This search resulted in the first technology that we put into *Focus Factor*. Pretty soon I was picked up by a pharmaceutical company that asked me to create a product specific for kids to enhance brain function—to increase focus and concentration. Well, this product was an outlandish success. And I'll never forget this one lecture that they sent me out to across the country. This lady stood up—and I'm telling you this because this is a moment that really changed my life—this lady stood up and she said, *Dr. Smith, the thing that touches me about Focus Factor is what it's done to my son's life. You see, before Focus Factor, my son was the boy at school that no one wanted to play with. He would throw temper tantrums and disrupt class if he didn't get his way. After 1 week of taking Focus Factor, his teacher wrote a note home that said, 'what are you doing different? Your son is sitting still, finishing his work in class...'* And the mom said this: *The thing that is most impressive is I'm watching his self-esteem grow. Well, Leisa...as she's crying, I'm sitting there trying to fight back tears and I'm saying to myself, This is a mission. We've got children suffering with this today. We've got adults and senior citizens with problems with focus and concentration, and this can have a profound negative effect on our life. Somewhere along the line I picked up the saying, In order to do really good in life, you've got to feel really good. And that's what Focus Factor is all about.*

Now, as I hear you saying this, it's a picture I see everyone that I'm relating to as you're saying these...y'know, inability to focus...and then you're talking about the mother saying she's having her child on *Focus Factor*. I've got family members, I've got myself, everyone that can relate to this...

Now tell me what is the principle behind Focus Factor?

There are really 2 underlying principles. Number 1...and this might seem simple on the surface but it's really important. We've gotta make up for the nutrition that's lacking in our diet today. You see, it's virtually impossible to come out of the grocery store with nutritious food today. Most everything in our cart, even if we're trying to avoid junk food, has been processed. Like refined sugar, refined flour... We've gotta realize that most of the nutrients in our food have been milled and refined out. This means we're filling our body with foods that are void of nutrition. What does this mean to us in real life? It means we wake up in the morning and we feel lousy. We've slept 8 hours but we still feel fatigued and lethargic. You try to hit that 'snooze' button to get another 10 minutes of sleep, like that's going to make a difference. Then you go to work and you feel irritable. You can't get much done. You come home and you feel mentally drained. So the first principle...we've gotta make up for what's missing in our diets. The second principle...this is really profound and this is the technology behind Focus Factor: Is there are specific nutrients that feed the brain's ability to create mental energy. If these specific nutrients are missing in our diet, or the multi-vitamin that we happen to pick, we'll never feel an increase of energy. We can be taking a multi-vitamin and still feel sluggish and lethargic. Focus Factor makes up for that by supplying the specific nutrients the brain uses for energy production.

Now with that in mind, we've got a formula for kids and a formula for adults, right?

Right.

Now tell me this, in your experience, do you see improvements in kids' school work?

Absolutely. We've even seen dramatic improvements in academic performance. And let me give you an example. A child that comes to mind, his name is Brian. He's the son of a doctor in my area that's a huge advocate of Focus Factor, probably because of this, y'know, this result in his own life. Brian was a child that was kicked out of no less than 4 schools. He would not respond to his parents or any kind of authority outside like, like principals or teachers. After being on Focus Factor, in one year he was on the honor roll...and two years later he graduated from high school with honors. Now, the most impressive thing to me is not the academic performance...and let me say, that's an extraordinary result. That doesn't happen in every case. But to me the most impressive thing isn't the better grades. What's impressive is the fact that Brian's self-esteem went up. He feels better about himself. He communicates with his parents, with peers, with authority figures like teachers even better. And as a result, he, in my opinion's gonna accomplish more in life. Instead of graduating as that child that feels like a failure, he graduated with quite an achievement and feels better about himself. That, to me, is the magic and the difference that feeding the brain, feeding the batteries in our brain and recharging them, can do.

So how about home-schooling? It seems like Focus Factor could really be a benefit because at home there's a lot of distractions, there's a lot of challenges.

True. I think you're correct. And one of the things that I've noticed about home-schoolers as I travel across the country and do lectures, it seems that many of the lectures are filled with parents that have chosen to do home schooling. And it's my perception that these parents are more attuned to what's going on in their child's life. It's like they've taken responsibility for what's going on in their education, and they're very interested in what they can do nutritionally to help boost their child's performance. And the most common story that these home-schoolers tell me is, with Focus Factor, their child accomplishes more in less time with energy to spare...to go play and do the things they might want to do. So it's neat. They can be right there with their children and they see first-hand the experience of feeding the brain.

I have with me now Anita Sohn. Anita is a school administrator, and she put her whole class on this amazing product. Anita, can you tell us why you did that and what happened?

Anita: Surely. We were having such great challenges with kids being able to focus and being able to actually sit still and concentrate and do their work. And a year earlier, or previously to that time, both my children had gone on the Focus Factor. And we had seen such a marked difference, when the parents would come and say, 'what can we do about this?' then I would start to tell them, 'Okay, this is what I would do in this situation. And it couldn't hurt, it can only help...try it.' So they started, one by one, each child started testing out the Focus Factor. And, as a result, my entire class went on the Focus Factor. We have just...we've had a wonderful time on it.

And what you found was that in many cases the kids seemed more attentive, they got better grades some of them?

Anita: Definitely.

That's just an unbelievable story. So they were really aware of the difference it makes. They can feel it.

Anita: They were *very* aware of it. Now, I've been on the Focus Factor personally myself for 2 years. When I got on it and started finding the difference that the supplement makes on a daily basis...not just when I need it. I am...I am the most awesome woman on Focus Factor, as well as my children.

So it would be safe to say that you're truly a believer in this product.

Anita: Oh, *very* safe to say.

Well, Anita, it has really been a pleasure talking to you. Thank you so much for being with us today.

Anita: Thank you. Bye-bye.

We're going to take a quick break. Coming up you'll hear from some doctors who recommend Focus factor to their patients. Right now it's your chance to call our toll-free telephone number so you can get a 30-day risk-free trial of Focus Factor. We'll be right back with Dr. Kyl Smith on the VitalBasics radio program.

CTA #1

Welcome back to the VitalBasics radio program. I'm Leisa Hart with special guest Dr. Kyl Smith, creator of *Focus Factor*. It started out as a supplement to help kids with learning and behavior challenges...but Doctor, you say that men and women got a hold of this stuff and they love it, too...

Well that's right, Leisa. The original formula for Focus Factor was a chewable for kids. But the interesting thing that happened was...the product would go into the typical household. The child would come home from school and say, *Mom, I had a great day! I aced my test and I finished my homework before I got home!* And the mom would notice that the child is less irritable...she can connect with him better. And then, of course, the mom started saying to herself, *Well, I need this stuff, too. I need to have a better day. I need to get more accomplished, and I certainly could use a lift in my mood.* This product went out into the field and it is an outlandish success. Because us adults realize that we need a mental boost...a natural mental boost every day.

So *that's* how you know whether a supplement really works. So it starts with the moms are giving it to the children...the children are performing wonderfully. And they're kind of like, *I need this stuff, my husband needs this stuff...*

Right.

Y'know, friends are telling friends. School teachers are telling the parents about it. And then doctors are telling their patients...*you need to try this stuff.* I can't think of a single person on this planet that would not benefit from this...

It's true.

I mean, men, women, young old, children, seniors, everybody...

That's true.

It is fantastic. [edit] Now, earlier this week we spoke with several people who say Focus Factor has dramatically improved their quality of life. So if you or anyone in your family—anyone you know—could use some help with mood, energy, memory...y'know just clearing out those mental cobwebs, you need to listen to this:

Silke Jones: My name is Silke Jones and I have been taking Focus Factor for about six months. The reason I started taking Focus Factor was because of the product benefits. It helps eliminate mood swings. That it gives you a little pick-up, so to speak, during the day to where you don't get the doldrums in the afternoon. That really got my attention because that is me—right there. I've attributed a lot of mood swings or depression here and there, you know, to just the age I'm going through right now, you know being a woman. So when I started taking Focus Factor, I was just surprised how quickly I felt a difference. It was amazing. I notice right away when I don't take Focus Factor. It's hard to describe. You just have to try it. And everybody I've talked to that I've recommended it to has said the same thing.

Kristin Rister-Wheatley: My name is Kristen and since I've been taking Focus Factor I have gotten tremendous results. I have more energy. I have a more stabilized mood. I feel like my brain functions better. I am on top of my game. Everyone knows that women, especially women, go through mood swings especially during certain times of the month, certain times of their cycle, and I have noticed that my mood swings are not the highs and lows that they used to be. I am a much more steady, calm person. I think it's very important that parents try Focus Factor with their children. Personally, it made a dramatic difference in my daughter's performance the way she felt in school—the way she'd concentrate. I've shared it with my friends. I've shared it with my family. They, everyone feels the same way. We all love Focus Factor.

Dr. Smith, did you have any idea when you were creating *Focus Factor* that it would have this kind of effect on so many people's lives?

I had no idea. Realize from a technical standpoint I created the product to enhance focus, concentration and memory...and even boost emotions like feeling better with a better mental state, mental attitude. I never expected, though, the real-world examples that come from people taking Focus Factor. I'm always surprised... I'll never forget, this one lady came up to me during filming a television program...she was an elderly lady...and she said, *Dr. Smith, I have to tell ya...before Focus Factor, my husband was the most irritable, cantankerous man you've ever met in your life. But after Focus Factor, we cut off the television now. We go on walks. I can get him to garden with me. We do hobbies like we used to. It's like I've got my old sweetheart back.*

Oh, that's wonderful. Imagine if she coulda had Focus Factor a long time ago...but better late than never.

Exactly.

I'm sure she was just elated.

Dr. Smith, in your experience how quickly does it take to work?

Well I generally tell people 10 days. Take Focus Factor consistently for 10 days. But what's really common is the fact that you're gonna notice a difference the first day you take it. I say 10 days to be conservative. I don't want anyone to be disappointed. And the thing that I always point out is there are absolutely no stimulants in Focus Factor. There's no caffeine. As a matter of fact, it's the nutrients that our brain needs for energy production so it's the best way we can supplement our diet and support our brain, which is obviously the most important organ in the body.

Now, for people out there are seniors today, what's this going to do for them?

Well, the most common thing seniors say, is they feel like they recaptured that energy that they had when they were younger. I mean, Focus Factor literally puts that spark back in their life where they feel like doing more. And let's talk about memory if we can. Because, again, like I say, seniors *worry* about their memory many times. I think the whole world, especially...let's just take this country...are suffering with memory problems. You've got children at school with problems focusing and concentrating and learning. You've got adults, you've got seniors. Now think about this: How many times have you been introduced to somebody...and, or let's say the person listening's been introduced to somebody...and by the time their handshake breaks their name falls to the floor. Or you go to the grocery store. And milk's on your list. You come home, you got 10 items...but no milk.

Where did the milk go?

Well, the bottom line is, we're all suffering with memory problems many times, if we'll be honest. It impairs our ability to learn. For professionals it impairs their ability to provide a great living because, if they can't learn new tasks, chances are they're not performing to their optimal capacity. It affects kids, and believe me it affects your self-esteem. Focus Factor provides the nutrients necessary to enhance memory, which is a blessing to all of us.

And folks listening, do you remember what the doctor's name is? A little test. It's Dr. Kyl Smith. I'm Leisa Hart. You may have already forgotten that. But the information is there...we just need something to help us get it out.

Everybody has a natural ability to have an awesome memory. You just have to have it released. And Focus Factor provides the nutrients that's going to literally allow you to learn new tasks and access old memories.

Okay let's listen to what some doctors are saying about *Focus Factor*. First we'll hear from Dr. Sean Sieracki...and then from Dr. Jim Van Meter. Now, these are doctors who recommend *Focus Factor* to their patients. Let's roll the tape.

Dr. Shawn Sieracki: I first heard about Focus Factor about ...a year and a half ago Dr. Kyl Smith introduced it to me at a seminar. And he passed out a few of the Focus Factor tablets, and from that point on I've been hooked on Focus Factor. It helps calm the mind. And it enhances brain function. That is what I am finding it's doing for women, men, and children as well. It's an excellent product just to help enhance the brain function. I believe that Focus Factor is the very best brain support product on the market. Focus Factor helps children or adults with mental fatigue...poor focus and irritability...it helps to keep that under control. I believe Focus Factor is the best supplement on the market for memory control and memory function—not just with children, not just with adults, and not just with seniors...it hits *all* ages, and it gives all ages the right amount of nutrients for the brain.

Dr. Jim Van Meter: This is Dr. Jim Van Meter. Every time I ever research anything, I always try the product on myself. Number one, if I can't be convinced that it's a benefit to me, why in the world would I ever give it to anyone else? My son has been on it, my daughter's been on it, my son-in-law's been on it...um...everyone in my family is on Focus Factor. It also has essential amino acids and things that are *also* in here that stimulate the brain to make the brain think, focus and recover facts numbers, words, definitions, etcetera. Where normal multi-vitamins and mineral has *nothing* to do with it and can't *ever* turn your brain on to thinking. It's a product that everyone can trust, and be wonderfully happy that they are giving their children and their family the very best that can be given to them to be able to achieve every goal they set out for.

So there you have just a few of the many doctors who recommend *Focus Factor* to their patients. Now, Dr. Smith, there are obviously thousands and thousands of supplements out on the market today. Out of all those products, what is it about *Focus Factor* that is getting all this attention?

We've got this wonderful grass roots thing going on in doctor's practices and in families across the country. And I think it's because Focus Factor *works*. I mean, think of how many times people take a vitamin or nutritional supplement and they absolutely do not notice *any* difference in their health, their mental clarity, or anything. Focus Factor very rapidly feeds the brain so you feel like you've got better attentiveness. Increased focus, concentration, increased memory...better mood, y'know what I mean? A better spirit about you.

Does that just turn a light on for them?

That's a great example. Kinda like turning a light bulb on. I think a lot of people, at least in my practice, feel like the light above their head when it lights up when they get an idea, like in a cartoon, is a dull light. With Focus Factor you get a bright light above your head.

Well I'll tell you what, I'd like that bright light all the time. We're going to take another quick break here. Folks, now you can try *Focus Factor* for yourself...absolutely *risk-free*. Even the call is free. The telephone number's coming up. I'm Leisa Hart, and you're listening to the *VitalBasics* radio program.

CTA #2

Welcome back everyone. Leisa Hart talking with Dr. Kyl Smith about *Focus Factor*...a groundbreaking new supplement that helps improve your mental edge. Doctor, for people just tuning in, give us a quick re-cap of the concept behind *Focus Factor* and why our listeners should choose *this* over all the other supplements out there.

Well, Leisa, the concept is simple. Today people are waking up feeling lethargic, they lack energy, they experience mood swings and irritability, lack of focus...because, quite frankly, our diets are just not providing the brain-supporting nutrients that we need to feel great. So I designed Focus Factor to help both adults and children *supplement* their diet...add those brain-supporting nutrients back to the diet...what I never imagined, though, is the stories that come from this product. I mean, I created it to increase focus, concentration and memory. The stories that come back, though, are higher self-esteem. Parents feel like they're better parents because they go to work, they get more done in less time, they come home with energy to spare that they can give their children and their spouse. The stories are just wonderful, life-changing experiences and it's caused me to realize that we all need to support the most important organ in our body...and obviously, that's our brain.

And you're going to feel this pretty quickly, right?

Typical person says that they notice a difference in how they feel within just 1 to 10 days.

Absolutely fantastic.

Texas Rep testimonial: Now, it's my great honor and pleasure to have with me on the phone Representative Rick Green. He's a member of the House of Representatives in the state of Texas, an attorney, business owner and father of a two children. Obviously a very busy man. Representative Green, thank you for joining us.

Glad to be here, thanks for having me.

Now what's your story with *Focus Factor*?

Well, you basically listed the reasons I was looking for something like Focus Factor. I was elected 2 years ago, and in our Texas legislature we meet for 140 days and we cover 6,000 bills in that short time frame, and trying to juggle that and practice law and run a business and spend time with my boys is not an easy thing to do, and I'm used to managing all of those different things but just being stressed out all the time, and not really enjoying the time that you *do* get with the family and I wanted something that wouldn't just affect me physically...I mean, I've had vitamins before that I could tell a physical difference...but with this product I was looking for something that would give me the mental clarity to deal with all these different tasks at the same time...and that's what I had been told about Focus Factor...started taking it about a year ago and found that was *exactly* the results. I felt a major difference in being able to manage different tasks, and focus on that task instead of, y'know, how you...you'd be at lunch with one person meeting on one thing, your mind's wandering off on all these other things you're supposed to be doing. Taking this product made a significant difference to where those things wouldn't happen. I mean, I could...whatever the task at hand was, I could concentrate on getting that done knowing I had these other things to deal with...

Sounds to me like you've given a whole new definition to the term *multi-tasking*.

[laughs] If there's a multi-*multi*-tasking, then that would fit.

Do you feel like your family has benefited as well?

Well, my 4 year-old has been taking the chewable vitamin, which...I took the chewable Focus Factor for awhile myself before I got on the adult Focus Factor. And the great thing about it is, we've always tried to get him to take a vitamin of some kind, and when Dr. Smith came out with Focus Factor it was the only one that he'll say, 'I want to take my vities!'

So he likes the taste.

He likes the taste, so that's a significant advantage over most of the products that are out there.

What would you say to our listeners who might still be skeptical about Focus Factor?

Well, I think, um, being someone...y'know, personally I've always been interested in taking supplements and vitamins and those kinds of things, so it was a lot easier, um, for me to make the decision to try something that I thought was gonna help what I was looking for. A lot of times we spend money on something that's supposed to be doing all these great things but you never feel it, you never notice if it did. With Focus Factor you're going to actually *know* that there's something different in the way that you are operating as a human being. Your brain's working better, your body's feeling better. I mean, with a product like that, what have you got to lose?

And your experience has been that it's really changed your life, helped your family, it's been great for your kids. Sounds like it's been great for you.

And let me tell you, I can tell when I *don't* take it.

That's always an important test of a supplement. If you feel a difference when you *don't* take it!

Right.

Well, Representative Green, thank you so much for coming on the program today. I know you're very busy and we appreciate your time.

Y'all have a great one.

We're almost out of time. This is *your* chance for any final words to our listeners. Anything you want to say before you go?

Well Leisa, Focus Factor is so important to me...I wouldn't start a day without it. I wouldn't let my family go without it. I wouldn't imagine letting my little girl go through life without the nutrients she needs for a great day so she can focus and concentrate and feel good about herself. But maybe the most profound thing is what this does in also adults' and senior citizens' lives. Senior citizens who felt like they don't have that mental spark...they've got that spark back that they used to have when they were younger. People who feel like they're going through a drudgery, a treadmill every day of feeling lethargic and not getting anything done. They're reaching for caffeine and candy to try and mentally stimulate themselves, which, of course, doesn't work. Focus Factor feeds the brain so you literally have that energy back so you feel like you can do more in less time and come home with energy to spare and spend that wonderful energy and time with your family.

Dr. Kyl Smith...thank you so much for being my guest today here on VitalBasics.

Thank you so much, Leisa. I've enjoyed it.

Well, folks, we're out of time. I'm Leisa Hart. Thank you for joining us on the *VitalBasics* radio program.

CTA copy: . If you would like more information about *Focus Factor*, the supplement that supercharges your brain, please call toll-free: 1-800-_____. That's 1-800-_____.

For over 5 years, Focus Factor has been available for men, women, children and seniors only through doctor's offices. But thanks to a special arrangement with Dr. Kyl Smith, you can now get on a 30-day risk-free trial *direct* from the Creative Health Institute. Mention the VitalBasics radio program and when you order you can even get a 30-day supply absolutely *free*.

Focus Factor is effective, all-natural, and guaranteed to give you noticeable results *quickly* or your money back. And you *don't* have to buy a separate multi-vitamin because all the essential nutrients you need are in this product. There are two formulas: the berry-flavored chewables for children...and the easy-to-swallow tablets for grown-ups.

Call now and be sure to ask about the doctor's special offer. It's 1-800-_____. That's 1-800-_____.

Focus Factor TV Show "Bill's Case Studies" transcript—April 19, 2001

Opening disclaimer: The following is a paid program for Focus Factor, brought to you by Vitalbasics.

IMPORTANT NOTICE TO CONSUMERS

THIS PRODUCT IS A DIETARY SUPPLEMENT. IT NUTRITIONALLY SUPPORTS NORMAL BRAIN FUNCTION. IT IS NOT A TREATMENT FOR DISEASE. This product is not intended to treat attention deficit hyperactivity disorder or any other mental illness. If you or your child suffer from mental illness, consult a physician for proper treatment.

Title Screen up: "Brain Starvation"

Karen Newton: I kept thinking, it's just approaching middle age. I couldn't sit down and watch a TV show or read a book without falling asleep. Because I was just so tired.

Lois Miller: I didn't think of it as brain starvation. I thought of it as loss of energy...older age...being able to keep up.

Anthony Lazzaro: The most important part of your body is your brain. A lot of people forget to feed their brain the proper food.

Barbara Clemente: Actually I went to a doctor and said, "I'm tired all the time. I can't concentrate. I'm forgetting words." And he told me this was normal—that this was aging and that I should just get used to it.

Cheryl Lee: When a 7 year-old is concerned about his acceptance in class and feeling good about himself and not having any friends...and being separated from his friends in the lunch room, that, to me, is more of a concern than just being an active young boy.

Tom Newton: There's so many things about the brain that we don't understand...

Susette O'Neal: It's very important that you feed your brain—this is the thing that's going to carry you through the next 50 or 60 years.

Bill: Welcome to the Vitalbasics Health Show. These people and millions just like them have made a shocking discovery. Despite the abundance of food in this country, despite the fitness craze, people still feel tired and mentally drained. Several months ago on this program we interviewed a leading expert in nutrition who is generating controversy with his assertion that there's a nationwide epidemic called "Brain Starvation" that affects men, women and children alike in this country. According to Dr. Kyl Smith, memory loss, poor concentration, mood swings and fatigue are causing a dangerous drop in effectiveness in the workplace and a higher level of tension and even anger in the home. He also introduced a new dietary supplement called Focus Factor that helps people with these every day problems. Dr. Smith, welcome to the program again.

Dr. Smith: Thank you, Bill. Again, I'm very glad to be here.

Bill: What is brain starvation and what are the signs we might have it?

Dr. Smith: Brain starvation, basically, occurs to all of, I believe, us on a daily basis when we fail to consume the nutrients that our brain needs for optimal function. And the way we feel when this occurs is we feel sluggish and lethargic. The problem is, if we were organically farming in our backyard the fruits and the vegetables and growing poultry and cattle like they did in the early 1900's in the backyard of the farm, and we were producing the grain products ourselves—taking the raw wheat, grinding it up and making the bread—we would have all the nutrients we needed from our diet. But we don't live that way anymore. The way we live is we go to the supermarket and we buy processed foods...the processed grain examples that we used, where literally the magnesium, the Vitamin B6 and other neuro-factors have been removed from the grain and not added back after processing. Now, here's another key, we humans have been manipulating our brain for years, our whole lives to try to change how we feel. A good example is chocolate, caffeinated beverages, even candies and sugar will alter brain chemistry and enhance neurotransmitters. The problem is they do it artificially.

Bill: But it's not just you, you know, Dr. Smith saying this. This is being widely reported in the mainstream press. First one: *Pain and fatigue are the two most common health related problems that cause people to seek help from their health practitioners.* Words they use to describe their condition include: exhaustion, lethargy, inability to sleep at night combined with inability to stay awake during the day.

Smith: Bad combination.

ll: Another one and this was a headline in USA Today, it was a cover story on it. It said, *our lives are all crumpled with stress, multi-tasking, high expectations, lack of manners. Now we're amid a new epidemic of anger, sometimes badly anger.* Now that we know that this is serious problem, tell us, what is Focus Factor and what does it do?

r. Smith: Focus Factor fills that huge gap of nutrients that's missing from every one of our diets. In other words, it helps to ensure that we consume the nutrients we need every day for healthy and optimal function for both the brain and the body. But Focus Factor actually goes one step beyond that. Focus Factor fills that gap with nutrients that have been shown in science to be some of the best quality, both natural ingredients...ingredients that have a high absorption in the human body. This is very important. If we want to make an impact on our health, we need to consume natural ingredients and ingredients that are very absorbable to the body.

ill: Recently we took our cameras out across the country. We went from the east coast to the west coast and back again to find out how brain starvation affects people on a day to day basis, and how Focus Factor helps them get back to normal productive lifestyle. Our first stop was Cleveland, Ohio and this highlights the fact that Focus Factor really is a supplement for the whole family. Tom Newton is the Midwest regional promotion's manager for Electra Records. His wife Karen is a medical transcriptionist and they have two school age daughters, Katie and Jackie. Take a look...

Newton family testimonial:

Tom Newton: One of things that really brought it home for me was, my boss called me out on a conference call and asked me a question. It was a simple question. And I wasn't paying attention. And, y'know, in front of all your peers, you're like, *what was the question?* [laughs]...and you just kind of see your career slowly slipping away.

Karen Newton: I'd find myself dozing off at the movie theatre because I was tired. But I thought, I have too much on my plate, I need more help at home...I'd be just yelling at the kids—they need to help me more and he needs to help me—and...so yeah, I was just running on empty for a couple of years there.

Tom/Karen Newton: **Karen:** One morning I just woke up and literally I felt good. And I thought, this has got to be Focus Factor working. **Tom:** Did you ever notice the difference in your mood from a Monday morning to a Friday afternoon? Well, I remember distinctly the first time I took it, because it was a Monday morning, and I remember taking the Focus Factor—doing my shower and all that. And then when I actually got to my office, it was like, *All right! I feel like Friday afternoon for some reason!* I couldn't figure that out. But, that was the beginning, and that's the kind of feeling I had a continue to have.

Karen Newton: You just find, like, that you're in a better mood, you have more enthusiasm, you have more patience. It just gets the cobwebs out and everything. You make the most of your day.

Katie Newton: When I'm on soccer field and taking Focus Factor I feel more confident and alert and energetic.

Jackie Newton: I have to get up and go to school every day. I have homework every day. I work almost every day. And Focus Factor just gives me enough energy to go on with my life, like, with a little bit more energy and not as tired as I used to be.

Bill: (Wonder Women introduction): One of the real tests of a product is how quickly the word gets around about it. If everybody's talking about something, it must be pretty good...and by all accounts, a lot of people are talking about Focus Factor, as in this next clip. Lois Miller is a professional real estate broker in Maryland, and she was feeling the effects of "brain starvation." Focus Factor worked so well for her, that she immediately gave some to her nieces.

Bill Miller: My ability to concentrate was...was non-existent. Practically non-existent. My focus was just horrible. I had very bad moods, and my energy level was drained.

Bill Miller: I was seriously considering retiring.

Bridgett Steele: It's frustrating to not be able to take charge of how I feel. For example, late afternoon when I don't feel like doing my work. I fought through it...I worked through it. But in hindsight, it's frustrating because I wasted so much time.

Coralie Miller: I was having a real problem with my energy level. Coming up on my 43rd birthday I just figured I'm getting old and I just can't keep this pace up anymore.

Bill Miller: I heard about Focus Factor on Coast-to-Coast Radio. And it was, like I said, I was in my bed that morning. I was so tired I was thinking about not going in to work. And I heard about Focus Factor and I said, I think I just have to order it.

Bridgett Steele: As a family, we exercise together a tremendous amount. We walk the dogs, we run together, we perform all kinds of outdoor activities, and Focus Factor has been incorporated into that very busy, active life.

Coralie Miller: One of the things you do when you are not able to focus is to stop and grab a snack or something to keep your energy level up. The side result is I'm finding it very easy to maintain not eating the office snacks and thereby keeping my weight off.

Bill Miller: Since taking Focus Factor, my memory is better, my concentration is better, my energy level is better. My ability to cope is better. My ability to endure...my endurance is better.

Bridgett Steele: By the end of the week I think you, as well as those around you, would notice that you can concentrate more—you can block things that would otherwise be distracting, out. Impediments that kept you from performing efficiently are gone, because you somehow find the ability to focus on what you're doing. And your attention to detail will improve dramatically.

Coralie Miller: Of what I know, 3 different people—my aunt, my cousin, and myself—have tried it with 3 totally different body chemistries and have all, in our own way, had very successful results.

Bill: Can you talk a little bit about what's happening in the brain in terms of when our brain's working at full capacity and then when it's starving, as you say?

Dr. Smith: Absolutely, the best way we can do this is to actually take a look inside the brain. As you travel inside the brain you'll notice that tiny telephone lines called neurons carry nerve impulses. However, something unique happens. No two neurons actually connect to each other. They're separated by a gap called the synapse. Now the way the brain actually makes a connection is it makes a chemical connection with what's called a neurotransmitter. Neurotransmitters are formed from the nutrients that we consume from the foods that we eat. So, in our comparison of two neurons you'll see on the left side we have low production of neurotransmitters and on the right we have high production of neurotransmitters. This correlates quite frankly into how you feel. When production of neurotransmitters is high you have a great day. You feel like you can focus and concentrate on demand.

CTA #1 Bill: Folks, if you would like more information about Focus Factor. If you or your kids need help with focus, concentration, memory, energy or mood swings, please call the number at the bottom of your screen. Thanks to a special arrangement with Dr. Kyl Smith, you can now get on a 30-day risk free trial. Be sure to mention the Vital Basic's Health Show, and when you order you can even get a 30-day supply absolutely free. And we have a special bonus that we did not have available the last time we had Dr. Smith on this program – he has produced a special video that explains more about Focus Factor. This is such a remarkable, revolutionary dietary supplement, and it is so different from anything else out there, this video explains how to take it properly, more information about the ingredients and some fascinating facts on how it literally energizes your brain. This video is free with your order. Remember there are two formulas – there are berry-flavored chewables for children and the easy-to-swallow tablets for adults.

[Vitalbasics Health Show transition]

Bill: Right now, we are going to find out a little more about brain starvation in some very simply everyday terms, through the foods that we're eating here. And Doctor Smith, you have some surprises for us.

Dr. Smith: We can not assume today that we receive all the nutrients we need from our diet for optimal brain function—for us to feel at our very best. Let's start out with breakfast. Because of the way grain products are refined in the milling process—from the grain to the refined flour, we can lose up to 90 percent of some nutrients. Let me show you what that means to us. If you start out with simple toast for breakfast, you're gonna have to eat 10 slices to make up for the loss of nutrition in your one or two slices. You can find this referenced in government studies, so it's solid information. Speaking of grain products...if we're looking at cereal (and I love cereal myself)...you'd have to eat 10 servings to make up for the nutrient losses in that cereal. Now, taking our example to lunch...using the same information...there are nutrient losses in the luncheon meat and in the vegetables (as we're going to see). You'd have to make three triple-decker sandwiches to make up for the nutrient losses in these foods.

Bill: I hope you're hungry. That's just incredible.

Dr. Smith: Now, this is real information and it's not exaggerated. Notice we don't have junk food up here...we don't have fast food. These are real foods.

Bill: yeah, these look like wholesome foods like we're supposed to eat every day.

Dr. Smith: Exactly. Let me give you a real strong example...as if these weren't strong already. In the case of broccoli, asparagus and green beans, the American Medical Association Council on Food and Nutrition, they state that nutrient losses can be so severe in vegetables, that by the time they get from the farm to the green grocer, they can lose up to 90% of some nutrients. Now, these are what we call "fresh" vegetables. In the case of canned peas, you can lose up to 75 percent of vitamins B5 and B6 which are both neuro nutrients—nutrients the brain uses. Let's bring it to dinner. Taking all this information we put together, you're gonna have to eat 5 servings of tomato sauce to make up for that loss. And then we're back to our grain example—10 servings of the pasta. Because of food storage and food processing, there are losses of nutrients. And if you don't make up for that by taking a good quality nutritional supplement, like Focus Factor, you're gonna suffer.

Bill: And folks, think about your own diet. Chances are you're *not* eating this healthy. Chances are you are sneaking in a lot of junk food...fast food...that kind of thing. So Focus Factor becomes really an essential supplement. I want to introduce to you right now a professional racecar driver named Anthony Lazzaro. Anthony is on the LeMans Series, which are races that last anywhere from three hours to twenty-four hours, and in his profession his mind, his brain is literally going at 180 miles per hour. So, you can really imagine how focused and alert his brain has to be and how he has to be. Now we caught up with him at a race in Sebring, Florida, and here's what he says about Focus Factor...

Anthony Lazzaro: My career has been very, very good so far. I've won numerous championships in open-wheel cars. I've won races in sports cars. To get the pole positions, to get the fastest race laps, to get the race wins, you need that edge...and with Focus Factor I have that edge. Your reactions, and what you do in the race car—I mean, we're traveling at 180 miles per hour, we're making split second decisions—your reaction times are everything. And if you're not at the top of your game, and you're not mentally prepared for what you're about to do, you can get in big trouble. Right now, I'm taking Focus Factor about 30-45 minutes before I get in the car. It's part of my daily routine. A lot of people watch their diets, they watch what they eat, they work out, they have different activities that they do for their body, but a lot of people forget about the brain. Focus Factor is brain food. It's what your brain needs to think more clearly. Your brain's telling your body what kind of energy level you're going to have. Focus Factor helps that. The results speak for themselves.

Bill: Here's what I'm thinking with Anthony's story, is that if Focus Factor works for someone like him who is under incredible pressure. I mean he's going nearly 200 mph, I mean that's his job. He drives almost 200 mph for a living. I can only imagine what it would do for the rest of us who aren't perhaps under that kind of pressure all the time.

Dr. Smith: Anthony has taken Focus Factor to extremes that we'll never have in our lives.

Bill (Al Demitri introduction):

Demitri lives in Florida, and he plays golf almost every single day. He has a tremendous swing, and take a look at S...

Demitri: I had friends who would come down from up north, from Ohio, and down here to Florida on vacation and you stand there and you couldn't maybe remember his first name and here he was a chumming buddy all the way through high school, y'know? And then, once I started taking Focus Factor, I noticed that names were easier... I don't walk into a room and forget what I was going into the room for. And I had problems before. I focus more on cars, where I'm a better and safer driver. The word "Focus" for golf is important as it is for anything. And when I heard the words Focus Factor on the radio, it seemed like it would be something I would like to try. My putting is tremendous now. My drives are going almost 30 yards farther. There's not a member I don't play with—and I play with over a hundred here—that can't vouch for that. I can only say that Focus Factor has done tremendous stuff for me. I mean, just generally...I don't know how to put it. I'm happy. You ever get so happy you're at a loss for words?

Bill (Susette O'Neal intro): We spoke with Susette O'Neal in San Diego. She has a young son named Eric who was really having a tough time focusing and staying on-task. She says it was really a challenge for her and her husband. But because of Focus Factor, there's a happy ending. Take a look...

Susette O'Neal: We have a lot of different things that we do in our lives that we take pride in, and one of those things are our children. To me, there's nothing I wouldn't do for my kid. I want them to have every advantage that they can possibly have. Prior to him taking the product, the other kids made fun of him. Y'know, that really made him feel like he wasn't good enough. But since he started taking that, now he can concentrate, he has confidence, he's able to do the work, he's able to learn, and that's something I feel really good about because I didn't think he could do it before. Really, you have to decide on what would you do to give your kid a better chance, better confidence, and better ability? I can't say enough about it...how it took a frustrated family—mother and father—and now we are just so happy. It's like the burden's off our back now, so we have been telling everybody about Focus Factor. And I hope that other people use it because it will make a difference in your life and your child's life.

CTA #2 Bill: And folks, I urge you to call right now and take advantage of Dr. Kyl Smith's special offer on Focus Factor. You can get a 30-day supply today with your order absolutely free, and if you call right now, you'll also get his new video. It explains more about Focus Factor, how to take it for best results, information about the ingredients and additional ways you can get the most out of your brain to improve focus, memory, mood, concentration and energy. There is a formula for kids and one for adults, and I really want to stress here that if you keep doing what you've always done, you're going to keep getting the same results. But this is your chance to do something different. To get your life back on track at work; this is also for your kids, to help them build brighter minds; and to our friends watching right now who are seniors, this can improve your quality of life so dramatically. So, call now and try Focus Factor. It's guaranteed safe and effective or your money back, and be sure to ask about that special offer. If the line is busy, keep trying, do make that call.

[Vitalbasics Health Show transition]

Bill: My guest is Dr. Kyl Smith who is an expert in nutrition, pediatrics and anti-aging and the creator of Focus Factor. We featured Dr. Smith on this program several months ago and the response has been nothing less than remarkable. Now, Dr. Smith, for viewers who are just tuning in, can you briefly explain, "What is Focus Factor?" and "What is it going to do for us?"

Dr. Smith: Focus Factor is basically nourishment for our brain, and what it does is it provides the nutritional factors that our brain needs to produce mental energy and neurotransmitters. Now what this means to us is Focus Factor essentially supports optimal focus, concentration, and memory in adults, teens and seniors.

Bill: And, again, this is natural?

Dr. Smith: This is a natural product, yes.

Bill (Barbara Clemente introduction): I want you to meet one more Focus Factor success story. This is Barbara Clemente. She lives in Maryland, and she's a health care consultant and also works with her husband in his accounting practice.

Barbara Clemente It was a very frustrating, hopeless situation, because I was in constant pursuit of trying to solve this problem—trying to figure out *why* I was tired...*why* I couldn't concentrate...*why* I couldn't get more things done during the day. At that point in time I was under the impression that I was just getting older, and this was the way it was to be. Although we did try every vitamin on the shelf—we pillaged the health food stores. I have yellow stickies everywhere. On cabinets in the kitchen, all over my desk, on the mirror in my bathroom. I mean, it was just...how I was going to get through was to post up what it was I was supposed to do or what I needed to remember. On a scale of one to ten, Focus Factor has helped me at 15. I have energy, I can concentrate. I can do multiple things at the same time and not get confused. I don't forget words anymore. The changes are amazing. We can spend more time now with our grandchildren, as well as the rest of our family, because we're not so tired. I'm not afraid of getting older, now that I have the Focus Factor. Because the decline was so great in terms of energy and memory, that I thought, surely within a couple years I will not remember anything, and be sitting in this chair, just sitting here. But now, the energy is back—the ability to go out and do things, stay up, keep all these balls in the air at the same time.

Bill: If you have a child who has trouble focusing and concentrating and you know that they're bright intelligent kids, I want you to meet Cheryl Leigh. During our road trip we went through Texas and visited Cheryl in her home. We were very moved by her story. Her son's name is Blake and he was having a lot of difficulty, even at home, and listen to Cheryl and see if you can relate to her frustration...

Cheryl Lee: It's a tremendous amount of strain and pressure...and just the guilt alone, as I mentioned earlier, can put a lot of stress on any kind of family. And it wasn't just the school. I mean, we couldn't go anywhere as a family. We didn't want to get sitters for him...we didn't want to go anywhere, we didn't want to go on family vacations because we were not sure at any point in time how Blake was going to react or respond to certain kind of other situations. So it really—"imprisoned" is a strong word, but it really imprisons your family until you understand what it is you're dealing with. Focus Factor is part of our family now because it has transformed my family into an environment that is joyful and peaceful and productive and smiling! About a week or ten days into Blake taking Focus Factor, he came home from school and he had a really good day at school. He talked about his friends. He talked about feeling like he belonged. Getting asked to play on certain sports at school. And that's when I knew we had our son back. And his life has changed. He went from saying, "I have no friends, I don't want to go back to school, I don't even know why you have a son like me..." to "Gosh, Mom, all the kids at school picked me first today, and I had so much fun today, and I got to sit with all my friends at the lunch table." Those are words of joy to a mother.

Blake Lee: I feel very happy...and I just think I'm a good boy and a smart boy.

Cheryl Lee: You want to believe in miracles, but you never really know. I mean...and I use the word miracle and I mean that. I really had never believed that something so miraculous could happen so quickly. And I didn't believe there was something out there that could make such dramatic changes in Blake and in our lives. My son has been given a second chance—and I feel like my prayers have been answered.

Bill: That is a tremendous story. And you know what I noticed about that, you know, Blake is such a cute kid but when you look into his eyes, you can really see that he's energetic, he's really focused now, and most importantly when it comes to kids, he's really happy. So this really does help people all across the spectrum – kids, men, women, baby boomers certainly who are starting to feel the affects of getting older, and seniors, at that end of the spectrum.

Dr. Smith: Everyone benefits when they feed their brain.

Bill: And you have made an impact in my life as well and I want to talk about that a little bit. Because in our last program folks, if you saw it, I told a story about this great big thick book that I picked up and read because I was taking Focus Factory and it was about the American Revolution and I was able to remember all kinds of things. So I'll tell you what, let's roll the clip....

Bill from previous show: "I started reading this 400 page book...very dense, very dry...and what I found was, I'm remembering everything virtually in this book. I'm remembering the names of British Lords and generals and dukes and battle sites and chains of events that happened. This book literally came alive to me...not only as I was reading it, but *after*, my comprehension was extraordinary."

Bill: And I have to say, since that program aired, things just seem to get better and better and better, it's sort of a cumulative affect. A couple of things that I notice. First of all, my memory just seems to keep getting better. And just a very small example is, I was listening to talk radio the other day and someone mentioned a web address, and Internet address, one time. I got into work the next morning, opened my computer, and I knew that web address. It was right there. So one thing I can do is visualize things better, which helps me to remember. The second big thing is multitasking. In the past, when I would get all different projects thrown at me at once, I would panic. Because it just seemed so overwhelming. Since taking Focus Factor what I find is I can more calmly prioritize things. I can focus on each task better, which means I get it done more quickly generally. And I can just get the projects done faster. So that just eases all of that stress that normally would have come down on me.

Dr. Smith: That's great.

Bill: I want to thank you very much for coming back on the program today and allowing us to share these dramatic stories with you.

Dr. Smith: I thank you and I thank you for sharing your story.

CTA #3 Bill: We're simply out of time. If you'd like more information about trying Focus Factor for yourself, it's a 30-day risk free trial. If you or your kids need help with focus, concentration, memory, energy or mood swings, please call the number at the bottom of your screen right now. Focus Factor's unique and natural blend of vitamins, minerals, botanicals and special cutting edge nutrients, help to energize and revitalize tired brain cells. **[cut to brain animation]** Let's go inside the brain to show you what happens. These are brain cells that need to be energized to keep you mentally sharp. And these pulses of neurotransmitters are what feed the cells their energy. On the left is sluggish neurotransmitter activity. On the right is energized activity. As you heard Dr. Smith say, when you feed your brain the right nutrients, you naturally energize it. Focus Factor feeds the brain in a big way. The 5 benefits most often reported are better focus, memory, mood, concentration, and energy. way You'll feel refreshed, mentally sharp, alert, focused and energetic and that's guaranteed or you get your money back. **[back to Bill]** So call now and be sure to ask about the Dr.'s special offer. If the line's busy, please keep trying, but do make that phone call. Thanks for watching the Vital Basics health program. I'm Bill Begley...take good care of yourself and God Bless.

Closing disclaimer: The preceding was a paid program for Focus Factor, brought to you by Vitalbasics.

IMPORTANT NOTICE TO CONSUMERS

THIS PRODUCT IS A DIETARY SUPPLEMENT. IT NUTRITIONALLY SUPPORTS NORMAL BRAIN FUNCTION. IT IS NOT A TREATMENT FOR DISEASE. This product is not intended to treat attention deficit hyperactivity disorder or any other mental illness. If you or your child suffer from mental illness, consult a physician for proper treatment.

Decision and Order

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Creative Health Institute, Inc. ("Creative Health") is a Texas corporation with its principal office or place of business at 4451 FM 2181, Suite 100-515, Corinth, Texas 76205.

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2. Respondent Kyl L. Smith (“Smith”) is an officer and sole director of respondent Creative Health. Individually or in concert with others, he formulates, directs, controls or participates in the policies, acts, or practices of Creative Health, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of Creative Health.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. “Competent and reliable scientific evidence” shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
2. Unless otherwise specified, “respondents” shall mean Creative Health Institute, Inc. and its respective successors and assigns, and officers, agents, representatives, and employees, and Kyl L. Smith, his respective agents, representatives and employees.
3. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
4. “Endorsement” shall mean as defined in 16 C.F.R. § 255.0(b).
5. “Substantially similar product” shall mean any ingestible dietary supplement containing one or more of the following ingredients: phosphatidyl serine; Dimethyl-aminoethanol

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(DMAE); docosahexaenoic acid (DHA); L-glutamine, L-pyroglutamic acid; pyridoxal alpha ketoglutarate, –acetyl-tyrosine, GABA, inositol, bilberry, pine bark; bacopa monnieri, Coenzyme Q-10, huperzine, choline, vinpocetine; boron; or vanadium.

I.

IT IS ORDERED that respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of Focus Factor or any substantially similar product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of endorsements, that:

- a. Such product improves the focus, memory, and concentration of healthy adults;
- b. Such product alleviates stress, fatigue, irritability and mood swings in healthy adults;
- c. Such product makes children and teenagers feel more alert, focused, and mentally sharp;
- d. Such product improves students' ability to concentrate and their academic performance;
- e. Such product improves senior citizens' memory, mental clarity, and energy;
- f. Such product improves adults' ability to absorb information in books and to recall facts, figures and names; or
- g. Consumers who start taking such product regularly will feel its effects in as little as one to ten days;

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unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any food, drug, or dietary supplement, as “food” and “drug,” are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of endorsements, about the benefits, performance or efficacy of such product for:

- a. The brain or any mental functions or processes (including, but not limited to cognitive function, memory, focus, learning or concentration);
- b. Stress, anxiety, energy, mood or behavior;
- c. Academic or business performance;
- d. Longevity, age-related memory impairment or dementia; or
- e. The treatment, cure, mitigation, alleviation of the symptoms, prevention, or reduction in the risk of any mental, brain, or central nervous system disease or disorder;

unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondents, directly or through any partnership, corporation, subsidiary, division, or other

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device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any food, drug, or dietary supplement, as “food” and “drug,” are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall disclose, clearly and prominently, a material connection, when one exists, between a person providing an endorsement for any product, and any respondent, or any individual or entity labeling, advertising, promoting, offering for sale, selling, or distributing such product. For purposes of this Part, “material connection” shall mean any relationship that might materially affect the weight or credibility of the endorsement.

IV.

Nothing in this order shall prohibit respondents from making any representation:

- A. For any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.
- B. For any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

V.

Nothing in this order shall be constituted as a waiver of respondents’ right to engage in speech protected by the First Amendment to the Constitution of the United States.

VI.

IT IS FURTHER ORDERED that respondents shall pay to the Federal Trade Commission the sum of sixty thousand dollars (\$60,000). This payment shall be made in the following manner:

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- A. The payment shall be made by wire transfer or certified or cashier's check made payable to the Federal Trade Commission, the payment to be made no later than fifteen (15) days after the date that this order becomes final.
- B. In the event of any default in payment, which default continues for ten (10) days beyond the due date of payment, the amount due, together with interest, as computed pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, shall immediately become due and payable.
- C. The funds paid by respondents, together with any accrued interest, shall, in the discretion of the Commission, be used by the Commission to provide direct redress to purchasers of Focus Factor in connection with the acts or practices alleged in the complaint, and to pay any attendant costs of administration. If the Commission determines, in its sole discretion, that redress to purchasers of this product is wholly or partially impracticable or is otherwise unwarranted, any funds not so used shall be paid to the United States Treasury. Respondents shall be notified as to how the funds are distributed, but shall have no right to contest the manner of distribution chosen by the Commission. No portion of the payment as herein provided shall be deemed a payment of any fine, penalty or punitive assessment.
- D. Respondents relinquish all dominion, control and title to the funds paid, and all legal and equitable title to the funds vests in the Treasurer of the United States and in the designated consumers. Respondents shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise; and in the event of bankruptcy of either respondent, respondents acknowledge that the funds are not part of the debtor's estate, nor does the estate have any claim or interest therein.

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VII.

IT IS FURTHER ORDERED that respondents Creative Health Institute, Inc. and Kyl L. Smith, their successors and assigns, shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation including videotape recordings of all such broadcast advertisements;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VIII.

IT IS FURTHER ORDERED that respondent Creative Health Institute, Inc. and its successors and assigns, and respondent Kyl L. Smith, for a period of ten (10) years after the date of issuance of this order, shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

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IX.

IT IS FURTHER ORDERED that respondent Creative Health Institute, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent Creative Health Institute, Inc. learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

X.

IT IS FURTHER ORDERED that respondent Kyl L. Smith, for a period of five (5) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment that may affect his compliance obligations arising out of this Order. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

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XI.

IT IS FURTHER ORDERED that respondent Creative Health Institute, Inc. and its successors and assigns, and respondent Kyl L. Smith shall, within sixty (60) days from the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

XII.

This order will terminate on April 26, 2024, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Analysis

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Creative Health Institute, Inc., and Kyl L. Smith, individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves practices relating to the advertising and promotion of Focus Factor, a dietary supplement containing, among other things, vitamins, minerals, botanicals, and amino acids. Marketing materials for Focus Factor claimed that the product enhanced brain function and improved the focus, memory, mood, concentration, and energy of children, adults, and seniors.

According to the FTC complaint, the respondents failed to have substantiation for their claims that Focus Factor: (a) improves the focus, memory, and concentration of healthy adults; (b) alleviates stress and combats the fatigue, irritability and mood swings that healthy adults experience; (c) makes children and teenagers feel more alert, focused, and mentally sharp; (d) improves students' ability to concentrate and their academic performance; (e) improves senior citizens' memory, mental clarity, and energy; (f) improves adults' ability to absorb information in books and to recall facts, figures and names; and (g) works in as little as one to ten days.

The complaint also alleges that the respondents failed to disclose that certain of the endorsers who appeared in advertising for Focus Factor had material connections with the product.

Analysis

The proposed consent order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the order prohibits claims that Focus Factor or any substantially similar product (defined as any ingestible dietary supplement containing one or more specified ingredients): (a) improves the focus, memory, and concentration of healthy adults; (b) alleviates stress, fatigue, irritability and mood swings in healthy adults; (c) makes children and teenagers feel more alert, focused, and mentally sharp; (d) improves students' ability to concentrate and their academic performance; (e) improves senior citizens' memory, mental clarity, and energy; (f) improves adults' ability to absorb information in books and to recall facts, figures and names; or (g) works in as little as one to ten days, unless the claims are substantiated by competent and reliable scientific evidence.

Part II requires that the respondents possess competent and reliable scientific evidence to support any future claims about the benefits, performance, or efficacy of any food, drug, or dietary supplement for: (a) the brain or any mental functions or processes (including, but not limited to cognitive function, memory, focus, learning or concentration); (b) stress, anxiety, energy, mood or behavior; (c) academic or business performance; (d) longevity, age-related memory impairment or dementia; or (e) the treatment, cure, mitigation, alleviation of the symptoms, prevention or reduction in the risk of any mental, brain, or central nervous system disease or disorder.

Part III requires disclosure of any material connection that exists between an endorser and the respondents or any other person or entity involved in marketing or selling the food, drug or dietary supplement that is the subject of the endorsement.

Part IV permits any representation for any product that is permitted in labeling for such product by the FDA pursuant to the Nutrition Labeling and Education Act of 1990, and any

Analysis

representation for any drug that is permitted in labeling for such drug under any tentative or final standard promulgated by the FDA or under any new drug application approved by the FDA.

Part V states that nothing in the order shall be constituted as a waiver of the respondents' rights to engage in speech protected by the First Amendment to the Constitution.

Part VI provides for the payment of \$60,000 to the Commission.

Part VII requires the respondents to retain certain records for five (5) years after the last date of dissemination of any representation covered by the order: (1) all advertisements and promotional materials containing the representation; (2) all materials relied upon in disseminating the representation; and (3) all evidence in respondents' possession or control that contradicts, qualifies, or calls into question the representation or the basis for the representation.

Part VIII requires the respondents for ten (10) years to provide copies of the order to personnel having responsibilities relating to the subject matter of the order, and to obtain signed copies acknowledging receipt of the order.

Part IX requires that the Commission be notified of changes in corporate structure that might affect compliance obligations arising under the order. Part X requires that the individual respondent notify the Commission for five (5) years of any changes in employment that might affect his compliance obligations arising under the order.

Part XI requires the respondents to file compliance reports with the Commission.

Part XII provides that the order will terminate after twenty (20) years under certain circumstances.

Analysis

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Complaint

IN THE MATTER OF

CALIFORNIA PACIFIC MEDICAL GROUP, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9306; File No. 0210143

Complaint, July 8, 2003--Decision, May 10, 2004

This consent order addresses practices used by Respondent California Pacific Medical Group, Inc., doing business as Brown and Toland Medical Group, an independent physician practice association (“IPA”) doing business both as a risk-sharing IPA in its contracts with health maintenance organizations (“HMO”) and as a non-risk-sharing IPA in its contracts to provide a preferred physician network (“PPO”) to payors. Its PPO members include approximately 600 physicians who provide physician services in San Francisco to PPO enrollees who live or work in San Francisco, California. The order, among other things, prohibits the respondent from entering into or facilitating any agreement between or among any physicians practicing in the Unifour area (1) to negotiate on behalf of any physician with any payor; (2) to deal, refuse to deal, or threaten to refuse to deal with payors; (3) on what terms to deal with any payor; or (4) not to deal individually with any payor, or to deal with any payor only through an arrangement involving the respondent. The order also prohibits the respondent from exchanging or facilitating the transfer of information among physicians concerning any physician’s willingness to deal with a payor, or the terms or conditions, including price terms, on which the physicians is willing to deal, and from attempting to engage in – or encouraging, suggesting, advising, pressuring, inducing, or attempting to induce anyone to engage in – any action prohibited by the order. In addition, the order requires the respondent, for five years after the order becomes final, to notify the Commission at least sixty days prior to entering into any arrangement with physicians -- under which the respondent would act as a messenger or agent on behalf of any physician for any qualified risk-sharing joint arrangement with payors regarding contracts or the terms of dealing with the physicians and payors -- and at least sixty days prior to negotiating or entering into any agreement with payors regarding contracts or the terms of dealing on behalf of any physician in a clinically-integrated joint arrangement. The order also requires the respondent to terminate, without penalty, any payor contracts that it had entered into during the period at issue, at any such payor’s request.